DOCUMENT RESUME

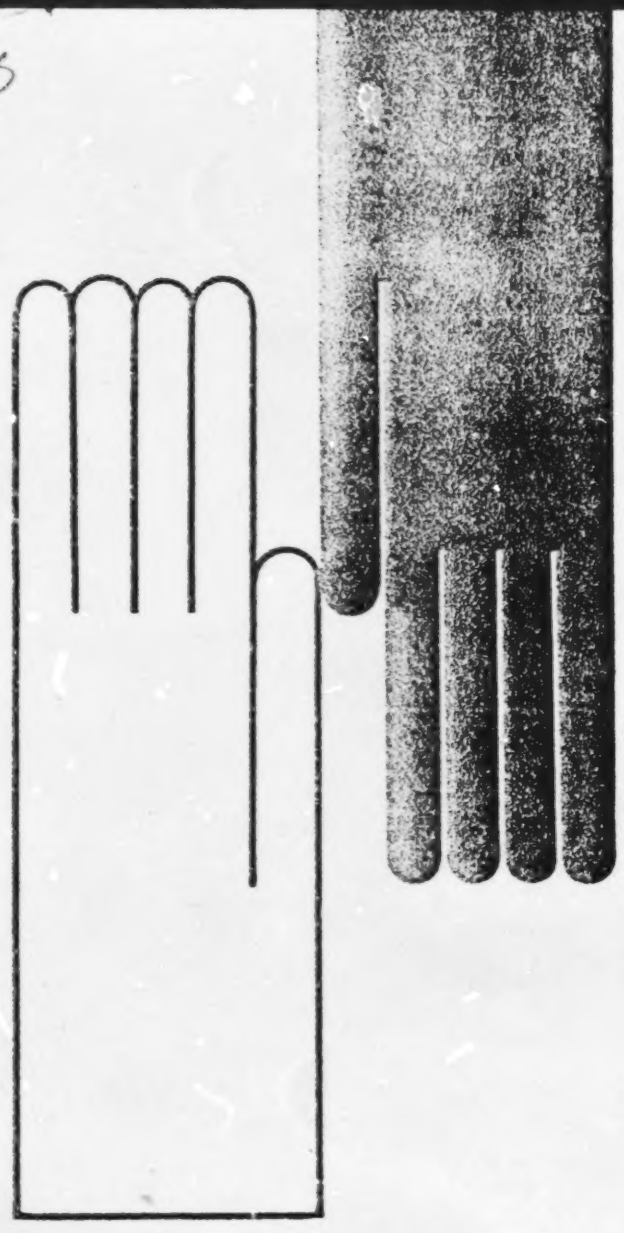
ED 109 272 UD 015 306

TITLE	The Kentucky Civil Rights Act: Explanation, the Act, Regulations.
INSTITUTION	Kentucky State Commission on Human Rights, Frankfort.
PUB DATE	20 Mar 74
NOTE	46p.; Seven pages of the text of this document relating to guidelines on religious discrimination, sex discrimination, and employment testing have been deleted due to poor reproducibility; Best copy available
EDRS PRICE	MF-$0.76 PLUS POSTAGE HC Not Available from EDRS
DESCRIPTORS	Civil Rights; *Civil Rights Legislation; Employment Opportunities; Housing Discrimination; *Law Enforcement; Public Facilities; Racial Discrimination; Racial Integration; Real Estate; Sex Discrimination; *State Agencies; State Government; *State Legislation
IDENTIFIERS	Age Discrimination; *Kentucky

ABSTRACT

The Kentucky Civil Rights Act, introduced on January 4, 1966, enacted January 27, 1966 and effective July 1, 1966 is said to meet the requirements of the Federal Civil Rights Act of 1964. In 1968, the Act was amended to prohibit housing discrimination. In 1972, the coverage of the Act was extended to prohibit employment discrimination because of sex, and age between 40 and 65. The amendments of 1972 also removed exemptions in the earlier Act in the areas of public accomodations and housing and thereby provided even greater protection for the rights of citizens of the Commonwealth. The Kentucky Civil Rights Act is stated to contain several significant features. Some are similar to those found in other states' laws, or suggested by various authorities; some are new in civil rights legislation. Features which are asserted to make the Act as strong as possible include the following: (1) the employment section applies to the State; (2) discriminatory advertising is prohibited in connection with employment, public accommodations, and real estate transactions; (3) the Commission can require the posting of notices by employers, employment agencies, labor unions, licensing agencies, public accomodations, and all real estate operations and apartments subject to the Act; and (4) commission members can initiate complaints. Nine other such features are also specified. (Author/JM)

ED109272



THE KENTUCKY CIVIL RIGHTS ACT

Explanation

The Act

Regulations

The Kentucky
Commission on
Human Rights
828 Capital Plaza Tower
Frankfort,
Kentucky 40601

UD 015306

INFORMATIONAL COPY

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

BEST COPY AVAILABLE

THE KENTUCKY CIVIL RIGHTS ACT

This explanation of Kentucky's Civil Rights Act has been prepared to help Kentuckians have a better understanding of the laws which prohibit discrimination. It is intended as a guide to the law. If particular legal questions arise, please consult the Kentucky Revised Statutes Chapter 344, or get in touch with the Kentucky Commission on Human Rights. References to the Kentucky Revised Statutes are indicated in parentheses.

Discrimination is a matter of state concern because it involves an individual's dignity and his right to be free of humiliation. Discrimination deprives a state of the full productive capacities of individuals: it encourages strife and unrest: it menaces democratic institutions: and it damages the interest, rights and privileges of all persons within the state. Housing discrimination is especially pernicious because it reinforces school segregation and employment segregation.

Under the leadership of Governor Bert T. Combs the 1960 Kentucky General Assembly created the Commission on Human Rights. After five years of efforts to eliminate discrimination solely by educational methods, the Commission recommended the enactment of an enforceable public accommodations and employment law.

The Kentucky Civil Rights Act was introduced as House Bill 2 on January 4, 1966. The bill received strong support from Governor Edward T. Breathitt, from many legislators of both parties and from a large number of individuals, groups and organizations which recognized the moral necessity for the legislation.

The Kentucky Civil Rights Act, enacted January 27, 1966 and effective July 1, 1966, meets the requirements of the Federal Civil Rights Act of 1964 and provides more sensitive, more efficient and less remote enforcement procedures than the federal law. Framers of the Kentucky Act capitalized on the experience of authorities in other state and federal agencies and, ultimately, they based their law on a draft of a model act prepared by the National Conference of Commissioners on Uniform State Laws.

In 1968, the Act was amended to prohibit housing discrimination and Kentucky became the 23rd state to pass a fair housing law. The 1968 Fair Housing Act was also based on the Model Act.

In 1972, the coverage of the Act was extended to prohibit employment discrimination because of sex, and age between forty and sixty-five. The amendments of 1972, also removed exemptions in the earlier Act in the areas of public accommodations and housing and thereby provided even greater protection for the rights of citizens of the Commonwealth.

The Kentucky Civil Rights Act contains several significant features. Some are similar to those found in other states' laws, or suggested by various authorities; some are new in civil rights legislation. All of these combined made Kentucky's law one of the most comprehensive and complete laws in the field. Features which make the Act as strong as possible are:

1) the employment section applies to "the State, any of its political or civil subdivisions or agencies" (KRS 344.010 /1/).

2) discriminatory advertising is prohibited in connection with employment (KRS 344.080), public accommodations (KRS 344.140) and real estate transactions (KRS 344.360 /6/).

3) the Commission can require the posting of notices by employers, employment agencies, labor unions, licensing agencies, public accommodations and all real estate sales offices, operators, brokers, builders, financial institutions and apartments subject to the Act (KRS 344.190 /14/).

4) commission members can initiate complaints (KRS 344.200 /1/).

5) proof of an intent to discriminate is not required to show an unlawful discriminatory practice.

6) the Commission can require employers, labor organizations, employment agencies and

housing managers to submit reports on the status of desegregation and to maintain such reports as are necessary for the enforcement of the Act (KRS 344.250 /1/, /2/, /3/).

7) the public accommodation coverage is worded in broad terms to cover all services to the general public and all places of public accommodation not explicitly excluded. (KRS 344.130).

8) the Commission can seek temporary restraining orders to prevent transfer of property pending resolution of a complaint (KRS 344.210 /6/).

9) the Commission can hold hearings and issue subpoenas and cease and desist orders (KRS 344.210 - 240).

10) the Act provides a fine for intimidation or retaliation against a complaint (KRS 344.990).

11) cities and counties are enabled to enact enforceable laws against any form of discrimination in entire metropolitan areas (KRS 344.300).

12) real estate brokers and salesmen who fail to comply with Commission orders or who engage in unlawful panic sales tactics must be reported to the Real Estate Commission for disciplinary action (KRS 344.385).

13) Violation of a conciliation agreement is made an unlawful practice and such agreements are enforceable (KRS 344.290).

Discrimination is defined (KRS 344.010 /4/) as any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in treatment of an individual because of race, color, religion, national origin, sex, or age between forty and sixty-five. This Act only deals with discrimination because of one of these characteristics. Distinctions because of political affiliation, clothing, etc., are not covered by this Act. The Act defines discrimination in employment, public accommodations and housing as unlawful practices. Discrimination based on race, color, religion or national origin is prohibited in employment, public accommodations and housing. In employment, discrimination on the basis of sex or age between forty and sixty-five is also prohibited.

Basically, Sections 040 through 070 state that race, color, religion, national origin, sex and age between forty and sixty-five are not lawful criteria for making employment decisions. Employers, employment agencies, labor organizations and licensing agencies are covered by the Act; so are employers hiring eight or more employees in each of 20 or more weeks in a calendar year. About 80% of Kentucky's employees and 22% of the State's employers are covered by the Act.

Under the Act (KRS 344.100) an employer can use seniority and merit systems and can make employment decisions as long as these decisions are not made on the basis of race, color, religion, national origin, sex, age between forty and sixty-five or have a discriminatory effect. What the Act emphasizes is equality of treatment.

The law, however, contains some reasonable provisions for exemptions. For example, (KRS 344.090) allows religious institutions, including church-related or church-supported educational institutions to exercise a religious preference in choosing their employees where religion is a reasonable occupational qualification in these cases.

Similar provisions allow the exercise of preferences based on sex, religion or national origin for an employer, employment agency or labor organization where such qualifications are necessary to the normal operation of the enterprise.

It is unlawful to deny persons "the full and equal enjoyment" of all that a place of public accommodation has to offer because of race, color, religion, or national origin. This includes "goods, services, facilities, privileges, advantages and accommodations."

A place of public accommodation is broadly defined in (KRS 344.130) as "any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which is supported directly or indirectly, by government funds." Exceptions are made in (KRS 344.130) for owner-occupied rooming or boarding houses that have one room for rent, and bona fide private clubs, where policies are determined by members and admission is limited to members and their guests.

Virtually all real estate transactions (from the solicitation and listing stage to the purchase or lease of the property) carried on by a real estate broker, salesman, operator or financial institution are covered by this Act.

The Act specifically sets out 11 unlawful discriminatory real estate practices (KRS 344.360, 370, 380). It is an unlawful practice for a real estate broker, salesman or operator, because of an individual's race, color, religion or national origin to (KRS 344.360):

1) refuse to sell, exchange, rent or lease or otherwise deny or withhold real property.

2) discriminate in the terms, conditions, or privileges...or in the furnishing of facilities or services.

3) refuse to receive or transmit a bona fide offer.

4) refuse to negotiate for sale, rental or lease.

5) represent to an individual that property is not available when in fact it is so available, or to refuse to permit an individual to inspect property.

6) make discriminatory advertising, or forms of application, or records of inquiry.

7) offer, solicit, accept, use or retain a discriminatory listing.

8) otherwise discriminatorily deny or withhold property.

It is an unlawful practice for a financial institution, because of an individual's race, color, religion or national origin to (KRS 344.370):

1) discriminate in the granting, withholding, extending, modifying or renewing, rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services.

2) directly or indirectly discriminate by use of an application record or inquiry, the purpose of which is to limit or specify because of race, color, religion or national origin.

It is an unlawful practice for a real estate broker, salesman, operator, financial institution or any other person who may benefit financially, to induce panic selling (KRS 344.380). They may not lawfully represent that undesirable changes will take place in a neighborhood as a result of minorities moving or the expectation of minorities moving into the area.

Those areas not covered by the fair housing section are as follows (KRS 344.365):

1) The rental of an apartment in a two unit apartment building providing the owner or a member of his family resides in one of the apartments (/1/ /a/).

2) The rental of a room or rooms in a single family residence by the occupancy of the residence or by the owner if he or a member of his family resides therein (/1/ b/).

3) The sale or rental of real property belonging to a religious institution or organization to the extent that the institution or organization may give preference to a member of the same religion or is calculated to promote its religious principles (/1/ /c/).

4) The sale or rental of his own home by the private individual home owner, himself, without assistance of any kind rendered by a real estate operator, broker or salesman, and without advertising or public display.

Real estate operators who follow a practice of requesting evidence of financial ability before negotiating with an individual are protected in applying the same procedure to Negroes under KRS 344.365 (3). However, any standards of credit or financial ability must be applied equally to all prospective purchasers. A different system for Negroes and whites is itself a violation of the Act.

Real estate dealers cannot accept instructions from an owner to discriminate. The public real estate dealer must offer full and equal service to all persons without regard to race, color, religion, or national origin and no owner can alter that legal requirement.

KRS 344.375 specifically states that "It shall be no defense to a violation of this act by a real estate operator, real estate broker, real estate salesman, financial institution, or other person subject to the provisions of this Act that the violation was requested, sought or otherwise procured by a person not subject to the provisions of this Act."

The Act and the Commission's philosophy emphasize education, persuasion and conciliation in bringing about compliance with the law. Where those methods fail the Commission has a variety of enforcement procedures and powers to insure compliance.

All covered employers, employment agencies, labor organizations, public accommodations, and establishments dealing in real estate are required to post and maintain a public notice prepared by the Commission. This notice must be conspicuously placed in well-lighted, easily accessible locations where it can be read by all persons seeking or granting services, facilities, goods, accommodations, or employment in the establishment. The purpose of the notice is to inform all persons that this establishment is covered by the Civil Rights Act.

Persons believing themselves discriminated against may file a complaint with the Commission. The statutory time limit for filing varies in accordance with the type of violation alleged. Complaints charging public accommodation discrimination must be filed within 180 days of the alleged incident. Employment complaints must be filed within 90 days of the alleged incident. Housing complaints must be filed within 30 days of the alleged incident.

Upon receiving a complaint, the Commission staff will conduct a preliminary investigation to determine if there is probable cause to believe that unlawful discrimination has occurred. If cause is found, the Commission will encourage complaince by conference, conciliation and persuasion.

When complaints are filed, the preliminary investigation made by the Commission helps screen out baseless charges and protects respondents (persons charged with discrimination) from harassment and from unjustified legal expenses. When the complaint is justified, mandatory conference, conciliation and persuasion must be followed. The vast majority of complaints are settled at this stage.

If conciliation efforts fail, the Commission will serve written notice, subpoena witnesses and documents and hold a hearing. All hearings are to be conducted according to the strict procedures specified by the Act and according to the regulations adopted by the Commission on Human Rights.

A member of the Commission who files a complaint or who tries to eliminate alleged discrimination in a specific instance is barred from participating in the hearing or subsequent deliberation in that case. This separation between the investigation and hearing functions of the Commission is one method of assuring the fairness of the procedure. After a hearing and upon a finding that the law has been violated, the Commission can issue a cease and desist order. The final orders of the Commission can be reviewed and enforced in the local circuit courts.

The Act provides subpoena procedures for the Commission and upon application for parties to a Commission hearing. All the normal judicial safeguards surround this process.

If it becomes necessary the Commission may seek from the circuit court appropriate temporary relief against respondent including an order "restraining him from doing or procuring any act tending to render ineffectual any order the Commission may enter with respect to the complaint."

If the Commission staff determines after investigation that there is no probable cause, then the complaint will be dismissed. The person bringing the complaint has a right to appeal this decision to the Commission and to the circuit courts. Safeguards to protect the rights of respondents and complainants at any stage of the process are included, and judicial review is available to anyone who feels that he has been aggrieved by a decision of the Commission.

To avoid undue burdens, Section 250 (5) provides that record-keeping under the Act will conform to records and reports required by federal law and regulations concerning government contracts. For the purpose of uniformity, in the interest of multi-state employers and to prevent employers from having to duplicate employment records and reports, the Kentucky Commission is empowered to work with the U. S. Equal Employment Opportunity Commission to prevent duplication and an undue burden on employers.

The general philosophy behind and purpose of the Act is to correct discriminatory practices. Since the purpose is to eliminate discrimination and not to punish those who have violated the Act, civil remedies are provided.

The law does provide, however, that anyone who retaliates against an individual exercising rights guaranteed by the Act will be subject to a fine and/or imprisonment (KRS 344.280 and 990).

KRS 344.385 provides that if a real estate broker or salesman fails to comply with any Commission order or has been found to have engaged in scare tactics used to induce whites to sell their homes in racially changing neighborhoods (KRS 344.380), his name and a written report of the violation or failure will be forwarded to the Kentucky Real Estate Commission for appropriate action. Kentucky law (KRS 324.160) empowers the Real Estate Commission to suspend or revoke a real estate license for misrepresentation, making false promises or other conduct that constitutes improper fraudulent or dishonest dealing. In 1963 the Real Estate Commission issued an interpretation that the use of such "scare tactics" is a violation and that the provisions would be strictly enforced.

Cities and counties are authorized to create commissions, and they can legally cooperate to eliminate discriminatory practices. They are empowered to adopt ordinances covering employment, public accommodations and housing. Ordinances covering housing discrimination can't exempt more coverage than the State Act.

Kentucky's provisions for local implementation of non-discrimination policies where local human rights agencies are created with sufficient enforcement power and professional staff were cited by the Commissioners on Uniform State Laws as an example for other states.

THE KENTUCKY CIVIL RIGHTS ACT

Kentucky Revised Statutes, Chapter 344

344.010 Definitions
344.020 Purposes of law, construction; effect
344.030 Definitions
344.040 Employers, discrimination
344.050 Employment agencies, discrimination
344.060 Labor organizations, discrimination
344.070 Apprenticeship or training, discrimination
344.080 Advertisement of employment, regulations
344.090 Religion or national origin, employment discrimination unlawful
344.100 Discrimination in wages or conditions unlawful
344.110 Preference because of imbalance in employment not required
344.120 Public accommodations, refusal to rent or sell unlawful
344.130 "Place of public accommodation, resort or amusement" defined
344.140 Advertisement of accommodations, goods, services, regulations
344.150 Establishment of commission; membership; terms
344.160 Members, qualifications, compensation
344.170 Commission's function
344.180 Commission's powers and duties
344.190 Additional powers and duties
344.200 Complaints of discrimination, procedure, conciliation agreements, enforcement
344.210 Notice and hearing, procedure
344.220 Documentary evidence, effect
344.230 Decision, orders, nature of
344.240 Judicial review, scope, procedure, order for enforcement
344.250 Investigations, powers, records, confidential nature of
344.260 Subpoenas, issue, enforcement
344.270 Commission procedure exclusive
344.280 Conspiracy to violate this chapter unlawful
344.290 Conciliation agreements, violation unlawful
344.300 Cities and counties may prohibit discrimination
344.310 Local Human Rights Commissions
344.320 Powers of local commissions
344.330 Additional powers of local commissions
344.340 Enforcement of local commission orders
344.350 Cooperation between state and local commissions
344.360 Unlawful housing practices
344.365 Exemptions from housing provisions
344.370 Unlawful financial practices
344.375 Agency no defense in proceeding against real estate dealer
344.380 Block busting
344.385 Notice of violation by real estate dealer to be given Real Estate Commission
344.990 Conspiracy or violation of confidential records, penalty

344.010 Definitions.

In this chapter:

(1) "Person" includes one or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky Commission on Human Rights.

(3) "Commissioner" means a member of the commission.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty and sixty-five, or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodation" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as the home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance, upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(9) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these. (1968 S 264, § 1. Eff. 6-13-68. 1966 c 2, § 201)

(10) "Licensing agency" means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

344.020 Purposes of law, construction; effect.

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 (78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968 (82 Stat. 81), and the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602).

(b) To safeguard all individuals within the state from discrimination because of race, color, religion, and national origin in connection with employment, public accommodations and real estate transactions; thereby to protect their interest in personal dignity and freedom from humiliation in places of public accommodation and in real estate transactions, to make available to the state their full productive capacities in employment, to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health and general welfare, and to further the interest, rights and privileges of individuals within the state; and to prohibit discrimination in employment

against individuals because of sex, or age between forty and sixty-five.

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing his own property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(1968 S 264, § 2. Eff. 6-13-68. 1966 c 2, § 101)

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(1968 S 264, § 2. Eff. 6-13-68. 1966 c 2, § 707)

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of race, color, religion, national origin, sex, age between forty and sixty-five.

344.030 Definitions.

For the purposes of KRS 344.030 to 344.110:

(1) "Employer" means a person who has eight or more employes within the state in each of twenty or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(2) "Employment agency" means a person regularly undertaking with or without compensation to procure employes for an employer or to procure for employes opportunities to work for an employer and includes an agent of such person.

(3) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employe representation committee, group, association, or plan so engaged in which employes participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(4) "Employe" means an individual employed by an employer, but does not include an individual employed by his parents, spouse or child, or an individual employed to render services as a domestic in the home of the employer. (1966 c 2, Art 3, § 301. Eff. 7-1-66)

344.040 Employers, discrimination.

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, sex, or age between forty and sixty-five; or

(2) To limit, segregate, or classify his employes in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employe, because of such individual's race, color, religion, national origin, sex, or age between forty and sixty-five.

344.050 Employment agencies, discrimination.

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex or age between forty and sixty-five, or to classify or refer for employment an individual on the basis of his race, color, religion, national origin, sex, or age between forty and sixty-five.

(2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of race, color, religion, national origin, sex, or age between forty and sixty-five.

344.060 Labor organizations, discrimination.

It is an unlawful practice for a labor organization:

(1) To exclude or to expel from its membership, or otherwise to discriminate against, a member or applicant for membership because of his race, color, religion, national origin, sex, or age between forty and sixty-five.

(2) To limit, segregate, or classify its membership, or to classify or fail to refuse to refer for employment an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employe or as an applicant for employment, because of such individual's race, color, religion, national origin, sex, or age between forty and sixty-five.

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section. (1966 c 2, Art 3, § 304. Eff. 7-1-66)

344.070 Apprenticeship or training, discrimination.

It is an unlawful practice for an employer, labor organization, or joint labor-management committee controling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of his race, color, religion, national origin, sex, or age between forty and sixty-five in admission to or employment in, any program established to provide apprenticeship or other training.

344.080 Advertisement of employment, regulations.

It is an unlawful practice for an employer, labor organization, licensing agency, or employment agency to print or publish or cause to be printed or published a notice advertisement relating to employment by such an employer or membership in or any classification or referral for employment by the employment or licensing agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, national origin, sex, or age between forty and sixty-five, except that such a notice or advertisement may indicate a preference, limitation, or specification based on religion, national origin, sex or age between forty and sixty-five, when religion, national origin, sex, or age between forty and sixty-five, is a bona fide occupational qualification for employment.

344.090 Religion or national origin, employment discrimination not unlawful in certain cases.

Notwithstanding any other provisions of KRS 344.030 to 344.110, it is not an unlawful practice for:

(1) An employer to hire and employ employes, or an employment agency to classify, or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ an individual in any such program, on the basis of his religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(2) A religious corporation, association, or society to employ an individual on the basis of his religion to perform work connected with the carrying on by such corporation, association, or society of its religious activity.

(3) A school, college, university, or other educational institution to hire and employ employes of a particular religion if the school, college, university, or other educational institution is, in whole or substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association,

or society, or if the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion and the choice of employes is calculated by such organization to promote the religious principles for which it is established or maintained. (1966 c 2, Art 3, § 308. Eff. 7-1-66)

344.100 Discrimination in wages or conditions not unlawful when made on basis other than race, color, religion, or national origin.

Notwithstanding any other provision of this chapter, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employes who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, or age between forty and sixty-five, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, or age between forty and sixty-five.

344.110 Preference because of imbalance in employment not required.

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, national origin, sex, or age between forty and sixty-five of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, or age between forty and sixty-five employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, or age between forty and sixty-five in the state or a community, section, or other area, or in the available workforce in the state or a community, section or other area.

(2) Nothing contained in this chapter regarding age prohibits:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform his duties.

(d) Any physical or medical examinations of applicants or employes which an employer requires to determine fitness for the job or position sought or held.

(e) An employer, labor organization or employment agency from observing the term of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual.

344.120 Public accommodations, refusal to rent or sell unlawful.

Except as otherwise provided in KRS 344.120 to 344.140, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, as defined in KRS 344.120 to 344.140, on the ground of race, color, religion, or national origin. (1966 c 2, Art 4, § 401. Eff. 7-1-66)

344.130 "Place of public accommodation, resort or amusement" defined.

As used in this chapter unless the context requires otherwise:

(1) "Place of public accommodation, resort or amusement" includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds: except that (a) a private club is not a place of public accommodation, resort or amusement if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests: and (b) "place of public accommodation, resort or amusement" does not include a rooming or boarding house containing not more than one room for rent or hire and which is within a building occupied by the proprietor as his residence.

344.140 Advertisement of accommodations, goods, services, regulations.

It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, will be refused, withheld from, or denied an individual on account of his race, color, religion, or national origin, or that the patronage of, or presence at, a place of public accommodation, resort or amusement, of an individual, on account of his race, color, religion, or national origin is objectionable, unwelcome, unacceptable, or undesirable. (1966 c 2, Art 4, § 403. Eff. 7-1-66)

344.150 Establishment of commission; membership; terms.

There is hereby created a commission on human rights. The commission shall consist of eleven members, one to be appointed from each Congressional district and three from the state at large. The Governor shall appoint all members, and shall name one member as chairman. Of the eleven members first appointed, three shall serve for one year, four for two years and four for three years. Thereafter all members of the commission shall be appointed for three years. In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which such member had been appointed. (1960 c 76, § 2. Eff. 6-16-60)

344.160 Members, qualifications, compensation.

(1) The members of the Commission on Human Rights established by KRS 344.150 shall be appointed on a bipartisan basis and shall be broadly representative of employers, proprietors, trade unions, religious groups, human rights groups, and the general public.
(1966 c 2, Art 5, § 501. Eff. 7-1-66)

(2) Each member is entitled to reimbursement of expenses incurred in the performance of his duties and when serving as a hearing examiner shall be compensated at a per diem rate to be established by the Commissioner of Personnel. (1966 c 2, Art 5, § 501. Eff. 7-1-66)

344.170 Commission's function.

The function of the commission shall be to encourage fair treatment for, to foster mutual understanding and respect among and to discourage discrimination against any racial or ethnic group or its members. (1960 c 76, § 3. Eff. 6-16-60.)

344.180 Commission's power and duties.

The powers and duties of the commission shall be:

(1) To employ an executive director and other necessary personnel within the limits of funds made available;

(2) To conduct research projects or make studies into and publish reports on discrimination in Kentucky;

(3) To receive and investigate complaints of discrimination and to recommend ways of eliminating any injustices occasioned thereby;

(4) To hold public hearings and request the attendance of witnesses;

(5) To cooperate with other organizations, public and private, to discourage discrimination;

(6) To encourage fair treatment for all persons regardless of race or national ancestry;

(7) To make an annual report to the Governor of its activities under this chapter. (1960 c 76, § 4. Eff. 6-16-60.)

344.190 Additional powers and duties.

In the enforcement of this chapter the Commission on Human Rights shall have the following powers and duties:

(1) To maintain an office in the City of Frankfort and such other offices within the state as may be deemed necessary.

(2) To meet and exercise its powers at any place within the Commonwealth.

(3) Within the limitations provided by law, to appoint an executive director, attorneys, hearing examiners, clerks and other employes and agents as it may deem necessary. At the direction of the commission, attorneys appointed under this section may appear for and represent the commission in any court.

(4) To promote the creation of local commissions on human rights, to cooperate with state, local and other agencies, both public and private, and individuals, and to obtain upon request and utilize the services of all governmental departments and agencies.

(5) To cooperate with the United States Equal Employment Opportunity Commission created by Section 705 of the Civil Rights Act of 1964 (78 Stat. 241) in order to achieve the purposes of that Act, and with other federal and local agencies in order to achieve the purposes of that Act, and with other Federal and local agencies in order to achieve the purposes of this chapter.

(6) To accept gifts or bequests, grants, or other payments, public or private, to help finance its activities.

(7) To accept reimbursement pursuant to Section 709 (b) of the Civil Rights Act of 1964 (78 Stat. 241) for services rendered to assist the Federal Equal Employment Opportunity Commission.

(8) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations of this chapter.

(9) At any time after a complaint is filed, to require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person or by deposition, and require the production of documents relevant to the complaint. The commission may make rules authorizing any member or individual designated to exercise these powers in the performance of official duties.

(10) To furnish technical assistance requested by persons subject to this chapter to further their compliance with this chapter or an order issued thereunder.

(11) To make studies appropriate to effectuate the purposes and policies of this chapter and to make the results thereof available to the public.

(12) To render annual written reports to the Governor and the legislature. The reports may contain recommendations of the commission for legislative or other action to effectuate the purposes and policies of this chapter.

(13) To create local or state-wide advisory agencies that in its judgment will aid in effectuating the purpose of this chapter. The commission may empower these agencies (a) to study and report on problems of discrimination because of race, color, religion, or national origin, (b) to foster through community effort or otherwise goodwill among the groups and elements of the population of the state, and (c) to make recommendations to the commission for the development of policies and practices that will aid in carrying out the purposes of this chapter. Members of such committees shall serve without pay but shall be reimbursed for expenses incurred in such service. The commission may make provision for technical and clerical assistance to the committees.

(14) To adopt, promulgate, amend and rescind rules and regulations to effectuate the purposes and provisions of this chapter, including regulations requiring the posting of notices prepared or approved by the commission. (1968 S 264, § 8. Eff. 6-13-68. 1966 c 2, § 502)

344.200 Complaints of discrimination, procedure, conciliation agreements, enforcement.

(1) An individual claiming to be aggrieved by an unlawful practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). The commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty days after the alleged unlawful practice occurs, except that a complaint alleging discrimination in real estate transaction must be filed within thirty days, and a complaint alleging discrimination in employment (under KRS 344.030 to 344.110) must be filed within ninety days. (1968 S 264, § 9. Eff. 6-13-68. 1966 c 2, § 503)

(2) The commission shall determine within thirty days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General and such other public officers and persons as the commission deems proper. (1968 S 264, § 9. Eff. 6-13-68. 1966 c 2, § 503)

(3) The complainant, within ten days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within ten days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper. (1968 S 264, § 9. Eff. 6-13-68. 1966 c 2, § 503)

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory prac-

tices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and such other public officers and persons as the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employe thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(1968 S 264, § 9. Eff. 6-13-68. 1966 c 2, § 503)

(5) At the expiration of one year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take such action as it deems appropriate to assure compliance.

(1968 S 264, § 9. Eff. 6-13-68. 1966 c 2, § 503)

(6) At any time after a complaint is filed, the commission may file an action in the circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under KRS 344.160, 344.190 to 344.210, and 344.230 to 344.260, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper. (1968 S 264, § 9. Eff. 6-13-68. 1966 c 2, § 503)

344.210 Notice and hearing, procedure.

(1) Within sixty days after a complaint is filed, unless the commission has issued an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty days after an application for review is filed under KRS 344.200(3), the commission shall serve on the respondent by registered or certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing before one or more members of the commission or an individual designated pursuant to its rules, at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the Attorney General, and such other public officers and persons as the commission deems proper.

(1966 c 2, Art 5, § 504. Eff. 7-1-66)

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation or persuasion, shall not participate in the hearing or in the subsequent deliberation of the commission.

(1966 c 2, Art 5, § 504. Eff. 7-1-66)

(3) The respondent may file an answer with the commission by registered or certified mail not less than five days before the hearing date. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the order is based.

(1966 c 2, Art 5, § 504. Eff. 7-1-66)

(4) The case in support of the complaint shall be presented before the commission by one of its attorneys or staff. Efforts at conference, conciliation, and persuasion shall not be received in evidence.

(1966 c 2, Art 5, § 504. Eff. 7-1-66)

(5) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant, the Attorney General, and, in the discretion of the commission, any person may intervene, examine and cross-examine witnesses, and present evidence.

(1966 c 2, Art 5, § 504. Eff. 7-1-66)

(6) If the respondent fails to answer the complaint, the commission may enter his default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(1966 c 2, Art 5, § 504. Eff. 7-1-66)

(7) Testimony taken at the hearing shall be under oath and transcribed. After the hearing, in its discretion, the commission upon notice to all parties with an opportunity to be present may take further evidence or hear argument. (1966 c 2, Art 5, § 504. Eff. 7-1-66)

344.220 Documentary evidence, effect.

The production of a written, printed, or visual communication, advertisement, or other form of publication, or a written inquiry, or record, or other document purporting to have been made by an individual shall be prima facie evidence in a proceeding under this chapter that it was authorized by the individual. (1966 c 2, Art 6, § 605. Eff. 7-1-66)

344.230 Decision, orders, nature of.

(1) If the commission determines that the respondent has not engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(1966 c 2, Art 5, § 505. Eff. 7-1-66)

(2) If the commission determines that the respondent has engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, the Attorney General, and to such other public officers and persons as the commission deems proper.

(1966 c 2, Art 5, § 506. Eff. 7-1-66)

(3) Affirmative action ordered under this section may include but is not limited to:

(a) Hiring, reinstatement or upgrading of employes with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(b) Admission or restoration of individuals to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs.

(c) Admission of individuals to a place of public accommodation, resort, or amusement.

(d) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.

(e) Reporting as to the manner of compliance.

(f) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission.

(1966 c 2, Art 5, § 506. Eff. 7-1-66)

(4) The commission may publish or cause to be published the names of persons who have been determined to have engaged in an unlawful practice. (1966 c 2, Art 5, § 508. Eff. 7-1-66)

344.240 Judicial review, scope, procedure, order for enforcement.

(1) A complainant, respondent, or intervenor aggrieved by an order of the commission, including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the commission may obtain an order of the court for enforcement of its order, in a proceeding brought in the circuit court in a county in which the alleged unlawful practice which is the subject of the order or complaint occurs or in which a respondent resides or has his principal place of business.

(1968 S 264, § 10. Eff. 6-13-68. 1966 c 2, § 507)

(2) The proceeding for review or enforcement is initiated by filing a complaint in the court. Copies of the complaint shall be served upon all parties of record. Within thirty days after the service of the complaint upon the commission or its filing by the commission, or within such further time as the court may allow, the commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. The findings of fact of the commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the commission, or remanding the case to the commission for further proceedings. All such proceedings shall be heard and determined by the circuit court and Court of Appeals as expeditiously as possible and with lawful precedence over other matters.

(1968 S 264, § 10. Eff. 6-13-68. 1966 c 2, § 507)

(3) If the commission has failed to schedule a hearing in accordance with KRS 344.210(1) or has failed to issue an order within one hundred eighty days after the complaint is filed, the complainant, respondent, Attorney General, or an intervenor may petition the circuit court in a county in which the alleged unlawful practice set forth in the complaint occurs or in which the petitioner resides or has his principal place of business for an order directing the commission to take such action. The court shall follow the procedure set forth in subsection (2) so far as applicable.

(1968 S 264, § 10. Eff. 6-13-68. 1966 c 2, § 507)

(4) The court shall not consider any matter not considered by, nor any objection not raised before, the commission, unless the failure of a party to present such matter to or raise such objection before the commission is excused because of good cause shown. A party may move the court to remand the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided he shows good cause for the failure to adduce such evidence before the commission.

(1968 S 264, § 10. Eff. 6-13-68. 1966 c 2, § 507)

(5) The jurisdiction of the circuit court shall be exclusive and its final judgment or decree shall be subject to review by the Court of Appeals as provided by the Rules of Civil Procedure. The commission's copy of the testimony shall be available to all parties for examination without cost during business hours at the commission's office in Frankfort.

(1968 S 264, § 10. Eff. 6-13-68. 1966 c 2, § 507)

(6) A proceeding under this section must be initiated within thirty days after a copy of the order of the commission is received, unless the commission is the petitioner or the petition is filed under subsection (3). If no proceeding is so initiated, the commission may obtain a decree of the court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent. (1968 S 264, § 10. Eff. 6-13-68. 1966 c 2, § 507)

344.250 Investigations, powers, records, confidential nature of.

(1) In connection with an investigation of a complaint filed under this chapter, the commission or its designated representative at any reasonable time may request access to premises, records, and documents relevant to the complaint and the right to examine, photograph and copy evidence.

(1966 c 2, Art 5, § 508. Eff. 7-1-66)

(2) Every person subject to this chapter shall (a) make and keep records relevant to the determination of whether unlawful practices have been or are being committed, (b) preserve such records for such periods, and (c) make such reports therefrom, as the commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this act or the regulations or orders thereunder.

(1966 c 2, Art 5, § 508. Eff. 7-1-66)

(3) The commission, by regulation, shall require each person subject to this chapter which controls an apprenticeship or other training program to keep all records reasonably necessary to carry out the purpose of the chapter, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and shall furnish to the commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training programs.

(1966 c 2, Art 5, § 508. Eff. 7-1-66)

(4) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the commission for an exemption from the application of the regulation or order. If the commission finds that the application of the regulation or order to the person in question would impose an undue hardship, the commission may grant appropriate relief.

(1966 c 2, Art 5, § 508. Eff. 7-1-66)

(5) So as to avoid undue burdens on persons subject to this chapter, records and reports required by the commission under this section shall conform as near as may be to similar records and reports required by federal law and the laws of other states and to customary record-keeping practice.

(1966 c 2, Art 5, § 508. Eff. 7-1-66)

(6) It is unlawful for a commissioner or employe of the commission to make public with respect to a particular person without his consent information obtained by the commission pursuant to its authority under this section except as reasonably necessary to the conduct of a proceeding under this chapter.

(1966 c 2, Art 5, § 508. Eff. 7-1-66)

(7) If a person fails to permit access, examination, photographing or copying or fails to make, keep, or preserve records or make reports in accordance with this section, the circuit court for the county in which such person is found, resides, or has his principal place of business, upon application of the commission, may issue an order requiring compliance. (1966 c 2, Art 5, § 508. Eff. 7-1-66)

13 344.260 Subpoenas, issue, enforcement.

(1) Upon written application to the commission a party to a proceeding is entitled as of right to the issue of subpoenas in the name of the commission by an individual designated pursuant to its rules requiring at-

tendance and the giving of testimony and the production of documents. A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena was issued. On petition of the individual to whom the subpoena is directed and notice to the requesting party, the commission or an individual designated pursuant its rules may vacate or modify the subpoena.

(1966 c 2, Art 5, § 509. Eff. 7-1-66)

(2) Depositions of witnesses may be taken as prescribed by the Rules of Civil Procedure.

(1966 c 2, Art 5, § 509. Eff. 7-1-66)

(3) If a person fails to comply with a subpoena, the circuit court for the county in which the person is found, resides, or has his principal place of business, upon application of the commission or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena. (1966 c 2, Art 5, § 509. Eff. 7-1-66)

344.270 Commission procedure exclusive.

Neither the commission nor any court of this state shall take jurisdiction over any claim of an unlawful practice under this chapter while a claim of the same person seeking relief for the same grievance is pending. A final determination of a claim alleging an unlawful practice under this chapter shall exclude any other action or proceeding brought by the same person based on the same grievance. (1966 c 2, Art 6, § 604(b). Eff. 7-1-66)

344.280 Conspiracy to violate this chapter unlawful.

It shall be an unlawful practice for a person, or for two or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this chapter, or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or

(4) To resist, prevent, impede, or interfere with the commission, or any of its members or representatives, in the lawful performance of duty under this chapter. (1966 c 2, Art 6, § 601. Eff. 7-1-66)

344.290 Conciliation agreements, violation unlawful.

It is an unlawful practice for a party to a conciliation agreement made pursuant to KRS 344.200 (4) to violate the terms of the agreement. (1966 c 2, Art 6, § 603. Eff. 7-1-66)

344.300 Cities and counties may prohibit discrimination.

(1) Cities and counties are authorized to adopt and enforce ordinances, orders, and resolutions prohibiting discrimination on the basis of race, color, religion, or national origin, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

(1966 c 2, Art 7, § 701. Eff. 7-1-66)

(2) Cities and counties may adopt and enforce ordinances, orders and resolutions prohibiting discrimination; no ordinance, order or resolution shall attempt to exempt more transactions from its coverage than are exempted by this subsection and KRS 344.365. (1968 S 264, § 12. Eff. 6-13-68)

344.310 Local Human Rights Commissions.

Any city or county, or one or more cities and counties acting jointly, may create a human rights commission (hereinafter a "local commission"):

(1) To provide for execution within its jurisdiction of the policies embodied in this chapter and the Federal Civil Rights Act of 1964 (78 Stat. 241); and

(2) To safeguard all individuals within its jurisdiction from discrimination because of race, color, religion, or national origin. (1966 c 2, Art 7, § 702. Eff. 7-1-66)

344.320 Powers of local commissions.

A local commission may be authorized to:

(1) Receive, initiate, investigate, hear, and determine charges of violations of ordinances, orders, or resolutions forbidding discrimination adopted by the city or county.

(2) Compel the attendance of witnesses and the production of evidence before it by subpoena issued by the circuit court of the county wherein the local commission is authorized to act.

(3) Issue remedial orders, after notice and hearing, requiring cessation of violations.

(4) Issue such affirmative orders as in the judgment of the local commission will carry out the purposes of this chapter. Affirmative action ordered may include but is not limited to the remedies enumerated in KRS 344.230 (3).

(5) Employ an executive director, attorneys, hearing examiners, clerks and other employes and agents.

(6) Accept grants, gifts, or bequests, public or private to help finance its activities. (1966 c 2, Art 7, § 703. Eff. 7-1-66)

344.330 Additional powers of local commissions.

A local commission established pursuant to this chapter may:

(1) Enter into cooperative working agreements with the United States Equal Employment Opportunity Commission created by Section 705 of the Federal Civil Rights Act of 1964 (78 Stat. 241) in order to achieve the purposes of that act; and with any federal or state agency in order to achieve the purposes of this chapter;

(2) In its discretion, or upon request of the commission, refer a matter under its jurisdiction to the commission for initial action or review;

(3) Refer to the commission for resolution a dispute over jurisdiction or other matter with another local commission;

(4) Provide a copy of its annual report to the commission. (1966 c 2, Art 7, § 705. Eff. 7-1-66)

344.340 Enforcement of local commission orders.

The proceeding for enforcement of a local commission order is initiated by filing a complaint in the circuit court. Copies of the complaint shall be served upon all parties of record. Within thirty days after the filing of the complaint by the local commission, or within such further time as the court may allow, the local commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The findings of fact of the local commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the local commission, or remanding the case to the local commission for further proceedings. All such proceedings shall be heard and determined by the circuit court and the Court of Appeals as expeditiously as possible and with lawful precedence over other matters. (1966 c 2, Art 7, § 704. Eff. 7-1-66)

344.350 Cooperation between state and local commissions.

The commission may enter into cooperative working agreements with local commissions which have enforceable ordinances, orders, or resolutions and professional staff under the provisions of KRS 344.320. (1966 c 2, Art 7, § 706. Eff. 7-1-66)

344.360 Unlawful housing practices.

It is an unlawful practice for a real estate operator, or for a real estate broker, real estate salesman, or an individual employed by or acting on behalf of any of these;

(1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from an individual because of his race, color, religion, or national origin;

(2) To discriminate against an individual because of his race, color, religion, or national origin in the terms, conditions, or privileges of the sale, exchange, rental or lease of real property or in the furnishing of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase rent or lease real property from an individual because of his race, color, religion, or national origin;

(4) To refuse to negotiate for the sale, rental or lease of real property to an individual because of his race, color, religion, or national origin;

(5) To represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his race, color, religion or national origin;

(6) To print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion or national origin or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use or retain a listing of real property for sale, rental or lease with the understanding that an individual may be discriminated against in the sale, rental or lease of that real property or in the furnishing of facilities or services in connection therewith because of his race, color, religion, national origin; or

(8) To otherwise deny to or withhold real property from an individual because of his race, color, religion, or national origin. (1968 S 264, § 3. Eff. 6-13-68)

344.365 Exemptions from housing provisions.

(1) Nothing in Section 344.360 shall apply:

(a) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations;

(b) To the rental of a portion of a housing accommodation by the occupant of the housing accommodation, or by the owner of the housing accommodation if he or a member of his family resides therein;

(c) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious corporation, association or society, to the extent that the religious corporation, association, or society, limits, or gives preferences in, the sale, lease, rental assignment, or sublease of real property to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained;

(2) Nothing in this chapter shall be construed to affect the legal rights of a private individual homeowner to dispose of his property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(3) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation. (1968 S 264, § 6. Eff. 6-13-68)

344.370 Unlawful financial practices.

It is an unlawful practice for a financial institution or an individual employed by or acting on behalf of a financial institution:

(1) To discriminate against an individual because of the race, color, religion, or national origin of the individual or the present or prospective owner, tenant or occupant of the real property or of a member, stockholder, director, officer, employe, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services in connection therewith; or

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, or national origin or an intent to make such a limitation, specification, or discrimination. (1968 S 264, § 5. Eff. 6-13-68)

344.375 Agency no defense in proceeding against real estate dealer.

It shall be no defense to a violation of this chapter by a real estate operator, real estate broker, real estate salesman, financial institution, or other person subject to the provisions of this chapter that the violation was requested, sought or otherwise procured by a person not subject to the provisions of this chapter. (1968 S 264, § 7. Eff. 6-13-68)

344.380 Block busting.

It is an unlawful practice for a real estate operator, a real estate broker, a real estate salesman, a financial institution, an employe of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located. (1968 S 264, § 4. Eff. 6-13-68)

344.385 Notice of violation by real estate dealer to be given Real Estate Commission.

Where a real estate broker or a real estate salesman has failed to comply with any order issued by the commission or has been found to have committed an unfair housing practice in violation of KRS 344.380, the commission shall notify in writing the Real Estate Commission of the Commonwealth of Kentucky of said failure to comply or violation. (1968 S 264, § 11. Eff. 6-13-68)

344.990 Conspiracy or violation of confidential records, penalty.

A person who wilfully engages in the practices declared unlawful by KRS 344.250 (6) and 344.280 is guilty of a misdemeanor and shall be fined not more than $100 or imprisoned for not more than thirty days, or both (1966 c 2, Art 6 § 602. Eff. 7-1-66)

HR-1-1

Re: POSTING AND DISTRIBUTION OF NOTICES
Relates to KRS Chapter 344--Amends HR-1

Pursuant to the authority vested in the Commission on Human Rights by KRS 344.190 the following regulation is adopted:

1.010 NATURE OF FAIR EMPLOYMENT PRACTICES NOTICES AND WHO MUST POST.

Every employer, employment agency, and labor organization subject to the Kentucky Civil Rights Act, shall post and maintain at their establishments fair employment practices notices furnished by the Kentucky Commission on Human Rights indicating the substantive provisions of the Kentucky Civil Rights Act, where complaints may be filed and such other information as the Kentucky Commission on Human Rights deems pertinent.

1.020 WHERE EMPLOYERS AND EMPLOYMENT AGENCIES MUST POST.

With respect to employers and employment agencies such notices must be posted conspicuously in easily-accessible and well-lighted places customarily frequented by employes and applicants for employment, and at or near each location where the employes' services are performed.

1.030 WHERE LABOR ORGANIZATIONS MUST POST.

With respect to labor organizations, such notices must be posted conspicuously in easily-accessible and well-lighted places customarily frequented by members and applicants for membership.

1.040 NATURE OF PUBLIC ACCOMMODATIONS NOTICES AND WHO MUST POST.

Every owner, lessee, proprietor or manager of any place of public accommodation, resort, or amusement, shall post and maintain at such place of public accommodation, resort or amusement, notices furnished by the Commission indicating the provision of the Kentucky Civil Rights Act dealing with places of public accommodation, resort or amusement; where complaints may be filed and such other information as the Commission deems pertinent.

1.050 WHERE PUBLIC ACCOMMODATIONS NOTICES MUST BE POSTED.

Such notices must be posted conspicuously in easily-accessible and well-lighted places at the place of public accommodation, resort or amusement where they may be readily observed by those seeking or granting any of the accommodations, advantages, facilities, or privileges of such places of public accommodations, resort or amusement.

1.060 NATURE OF HOUSING NOTICES AND WHO MUST POST.

Every real estate operator, real estate broker, real estate salesman, financial institution, builder, developer, or apartment owner subject to KRS 344.360 shall post and maintain at each location and elsewhere, where their services are regularly performed, notices indicating the provisions of the Kentucky Civil Rights Act dealing with housing, where complaints may be filed, and such other information as the Commission deems pertinent.

1.070 WHERE HOUSING NOTICES MUST BE POSTED.

Every real estate operator, real estate broker, real estate salesman, financial institution, builder, developer, or apartment owner subject to KRS 344.360, must post such notices furnished by the Kentucky Commission on Human Rights at every business location and elsewhere, where their services are regularly performed, in an easily-accessible and well-lighted place.

1.080 NOTICE TO OWNERS LISTING PROPERTY.

Every real estate operator, real estate broker, real estate salesman, financial institution, builder, and developer, subject to the Kentucky Civil Rights Act shall provide to owners of real property at the time they contract for the sale, purchase, or rent, or financing or property, a copy of the memorandum entitled: "Your responsibilities under Kentucky's Civil Rights Act" and any amendments thereto, prepared by the Office of the Attorney General of Kentucky on the subject of owners' responsibility under the Kentucky Law against discrimination in housing. Such notices shall be supplied by the Kentucky Commission on Human Rights.

APPROVED AS TO FORM AND LEGALITY:

_____

Galen Martin, Attorney at Law
Executive Director, Kentucky Commission on Human Rights

ADOPTED THIS 13th DAY OF SEPTEMBER, 1968.

_____

Paul Oberst, Chairman
Kentucky Commission on Human Rights

Re: RULES OF PRACTICE AND PROCEDURE BEFORE THE KENTUCKY COMMISSION ON HUMAN RIGHTS

Relates to KRS Chapter 344

Pursuant to the authority vested in the Kentucky Commission on Human Rights by K.R.S. 344.190, the following regulation is adopted:

2.010 DEFINITIONS When used in this regulation

1. "Act" shall mean the Kentucky Civil Rights Act, K.R.S. Chapter 344.

2. "Person, Commission, Commissioner, Discrimination, Employer, Employment Agency, Labor Organization, Employee, Place of Public Accommodation, Resort, or Amusement, Real Estate Operator, Real Estate Broker, Real Estate Salesman, Financial Institution and Licensing Agency" shall have the meanings given to them in the Act.

3. "Chairman" shall mean the duly appointed chairman of the Kentucky Commission on Human Rights, or in the event of his absence or inability to act, the vice-chairman, or if no vice-chairman has been designated, or if such vice-chairman is unable to act, a commissioner designated by the chairman.

4. "Hearing Commissioners" shall mean the commissioners designated by the chairman to conduct a hearing.

5. "Investigator" shall mean a member of the Commission staff designated by the executive director to investigate the allegations of the complaint and make a determination of whether there is probable cause, or a commissioner appointed by the chairman.

2.020 COMPLAINT

1. Who may file

   a. Any individual claiming to be aggrieved by an unlawful practice may make, sign, and file with the Commission a written sworn complaint. Assistance in drafting and filing complaints shall be available to complainants at the Commission's office in Frankfort, at any other Commission office, and from any Commission staff member.

   b. A commissioner or the Attorney General may, in like manner, make, sign, and file such complaint.

   c. Upon the receipt of a communication from the Federal Equal Employment Opportunity Commission or U.S. Dept. of Housing and Urban Development transmitting a complaint which has been submitted to that agency, the executive director, acting in the name of the Commission, may issue a complaint in writing and attach thereto the materials transmitted from the Federal government, if any.

2. Complaint Form -- The Complaint shall be in writing and the Commission shall provide a form to aid the complainant if so desired. The complaint must be signed and sworn before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. Notarial service shall be furnished without charge by the Commission.

3. Contents

   a. A complaint shall contain the following:

      1. The full name and address of the complainant.

      2. The name and address of the person, employer, labor organization, employment agency, government agency place of public accommodation, resort, or amusement, Real Estate Operator, Real Estate Broker, Real Estate Salesman, Financial Institution or Licensing Agency against whom the complaint is made.

      3. A short and plain statement of the claim showing that the complainant is entitled to relief under the Kentucky Civil Rights Act.

   b. A complaint should contain the following:

      1. The date or dates and time of day the alleged unlawful discriminatory practice, if known, and if the alleged unlawful discriminatory practice is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred, if known.

      2. A statement as to any other action, civil or criminal, instituted by the complainant in any other forum based upon the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action.

4. Time of Filing -- A complaint alleging discrimination in employment must be filed within 90 days after the alleged unlawful practice occurs. A complaint alleging discrimination in a place of public accommodation, resort, or amusement must be filed within 180 days after the alleged unlawful practice occurs. A complaint alleging discrimination in a real estate transaction must be filed within 30 days after the alleged unlawful practice occurs. If the alleged practice is of a continuing nature, the date of the occurrence of said practice shall be deemed to be any date subsequent to the commencement of the practice up to and including the date on which the practice shall have ceased, or the date on which the complaint shall have been filed if the unlawful practice continues.

5. Place of Filing -- A complaint shall be filed with the Commis-

mission at its office in Frankfort or Louisville.

6. Manner in Filing -- The complaint may be filed by personal delivery, ordinary mail, registered or certified mail to the Commission's office in Frankfort or Louisville. A complaint may be delivered to a commissioner, or a member of the Commission's staff or to any other Commission office for filing at the Commission's Frankfort or Louisville office.

7. Amendment of Complaint -- The Commission, the presiding hearing commissioner, or the complainant shall have the power reasonably and fairly to amend a complaint.

   a. The power to amend a complaint may be exercised prior to the issuance of a notice of hearing by the Commission staff with the consent of the complainant and after the issuance of a notice of hearing by the presiding hearing commissioner with the consent of the complainant.

   b. The complainant's power to amend the complaint may be exercised prior to the issuance of a notice of hearing as a matter of right, and after notice of hearing at the discretion of the presiding hearing commissioner.

   c. If a complaint is amended, postponement of the hearing date may be granted to the respondent upon a request to the Commission. In no event shall such hearing date be more than ten (10) days later than the original hearing date.

8. Withdrawal of Complaint -- Upon the written request of the complainant, stating the reasons for such request, a complaint or any part thereof, may be withdrawn only on written consent as hereinafter set forth:

   a. If the request for withdrawal is made before the case has been noted for hearing, the written consent of the executive director shall be obtained.

   b. If the request for withdrawal is made after the case has been noted for hearing, the written consent of the chairman shall be obtained.

   c. In either case of withdrawal, such withdrawal shall be without prejudice to the rights of the complainant.

9. Dismissal of Complaint -- If the executive director shall determine, whether upon the face of the complaint, after investigation, or after conference, conciliation, and persuasion, that the complaint shall be dismissed, due to lack of probable cause or for other reasons, he shall dismiss the complaint and notify the parties by mail of such determination and of the complainant's right to apply to the Commission for reconsiderati of such dismissal.

2.030 INVESTIGATION, CONFERENCE, CONCILIATION, AND PERSUASION

1. Investigation -- After the filing of a complaint the executive director shall designate an investigator from the Commission staff and the chairman may designate a commissioner to direct the investigation as chief investigator. The investigator (s) shall make a prompt and thorough investigation of the allegations of the complaint.

2. Production of Evidence --

   a. An investigator may at any reasonable time request access to premises, records, and documents relevant to the complaint.

   b. If such request is denied, the Commission may issue a subpoena duces tecum requiring the production of such documents.

   c. If a person fails to permit access, examination, photographing, or copying, the Commission may apply to circuit court for an order requiring the person to permit same.

3. Conference, Conciliation and Persuasion -- If the investigator determines after preliminary investigation that probable cause may exist for crediting the allegations of the complaint, he shall report his recommendations to the executive director, who shall make a finding and report to the Commission. The invesitgator shall endeavor to eliminate the unlawful discriminatory practice by conference, conciliation, and presuasion. If a complaint subsequently goes to a hearing, no testimony shall be given or received concerning any offers or counteroffers made in an effort to conciliate any alleged unlawful discriminatory practice.

   The investigator shall notify the respondent (s) that a particular meeting or conversation is for the purpose of attempting to conciliate the complaint. These requirements shall not be construed to limit the power of the Commission to conduct further investigations in preparation for a hearing or for other purposes in connection with its statutory duties, nor shall they be construed to prohibit the use of evidence obtained through such investigations.

4. Conciliation Agreement -- If as a result of conference, conciliation, and persuasion, the investigator is able to provide for involuntary compliance, and to effect the elimination of any unlawful discriminatory practice, a conciliation agreement shall be prepared which shall set forth all measures to be taken by any party, including provisions for compliance reports, and which shall be signed by the respondent and a representative of the Commission.

5. Satisfactory Adjustment -- Upon the signing of the conciliation agreement, the investigator shall report the same to the executive director, who shall mark the case "satisfactorily adjusted" and notify the parties and commissioners of the terms of such disposition. Said disposition of a case by conference, conciliation, and persuasion shall not, however, preclude the Commission, whenever justice so requires, from reconsidering the terms of such

conciliation at any time and taking such further action as it may deem necessary on notice to the parties.

2.040 RECONSIDERATION

1. The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the Commission an application for reconsideration of the order. Such application must be in writing, stating specifically the ground on which it is based.

2. Upon receipt of an application for reconsideration, the executive director shall designate a different investigator and the chairman may designate a different commissioner to direct the new investigation as chief investigator. While a new investigation shall be made, the investigator may consider the evidence gathered in the initial investigation. The investigator (s) shall within ten (10) days make a new determination of whether there is probable cause to believe that the respondent has engaged in an unlawful practice.

3. Dismissal of a complaint may be reconsidered by the Commission on its own initiative at any time within 90 days after the alleged unlawful employment practice occurred, within 180 days after an unlawful practice allegedly occurred in a place of public accommodation, resort or amusement, or within 30 days after an unlawful practice allegedly occurred in a real estate transaction. Notice of such reconsideration shall be provided by the Commission to all parties to the initial investigation or final conciliation as the case may be.

2.050 NOTICE OF HEARING

1. When Hearings Ordered --

   a. After a finding of probable cause to credit the allegations of the complaint and in case of failure to eliminate said unlawful discriminatory practices or otherwise resolve same, the results of the investigation shall be reported to the executive director, who shall report same to the chairman, with his recommendation on scheduling a hearing.

   b. The chairman shall thereupon appoint a presiding hearing commissioner and may in his discretion appoint one or more additional hearing commissioners.

2. Notice of Hearing

   a. The notice of hearing shall state the time and place and shall inform the respondent that he may file an answer to the complaint.

   b. The notice of hearing and sworn complaint, as the same may

have been amended, shall be served by registered or certified mail on the respondent at least ten (10) days before the date of the hearing, and the complainant, hearing commissioners and Attorney General shall be furnished a copy of such notice.

c. If a party is represented by an attorney, a copy of the notice of hearing and complaint, as the same may have been amended, shall be furnished to said attorney.

3. Place of Hearing -- The place of any hearing shall be the office of the Commission in Frankfort or such other place as may be designated by it. The Commission shall give consideration to a request for a change or hearing location made by the complainant or the respondent.

2.060 ANSWER

1. Filing of Answer -- The respondent may by himself or his attorney answer the complaint or amended complaint. The answer shall be in writing and signed by the respondent or his attorney and filed with two copies at the office of the Commission in Frankfort or Louisville not less than five (5) days before the hearing date.

2. Contents -- The answer shall state in short and plain terms the defenses to each claim asserted and shall admit or deny the allegations in the complaint. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, the answer shall so state and this has the effect of a denial. The answer shall contain the post office address of the respondent.

3. Manner of Filing -- The answer may be filed by registered or certified mail addressed to the office of the Commission in Frankfort or Louisville or by delivery to said offices.

4. Failure to Deny or Admit -- Failure to deny or admit an allegation in the complaint, unless the respondent shall state in the answer that he is without knowledge or information sufficient to form a belief, shall be deemed an admission of such allegation.

5. Defense and New Matter -- Any allegation of new matter contained in the answer shall be deemed denied without the necessity of a reply.

6. Extension of Time for Filing -- Upon application, the chairman or the presiding hearing commissioner may for good cause shown extend the time within which the answer may be filed.

7. Amendments of Answer -- The answer or any part thereof may be amended as a matter of right at any time before the first hearing and thereafter in the discretion of the presiding hearing commissioner on application duly made therefor. An original with two copies of the amended answer shall be filed with the Commission.

8. Amendment of Answer upon Amendment of Complaint -- In any case where a complaint has been amended, the respondent shall have the opportunity to amend his answer within such period as may be fixed by the presiding hearing commissioner.

9. Failure to File Answer -- The hearing commissioners may proceed, notwithstanding any failure of the respondent to file an answer within the time provided herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its order upon the testimony taken at the hearing.

10. Default -- Upon application the chairman may for good cause shown set aside a default in answering.

2.070 HEARINGS

1. Appearances -- Whenever practicable the complainant or the party on whose behalf the complaint was filed shall appear at the hearing, with or without counsel, and submit testimony. The respondent may appear at the hearing with or without counsel and if an answer has been filed or the default in answering has been set aside for good cause shown, may examine and cross-examine witnesses and may present evidence. The complainant, the Attorney General, and in the discretion of the presiding hearing commissioner any person, may intervene examine and cross-examine witnesses, and present evidence.

2. Who Shall Conduct -- Hearings shall be conducted before one or more hearing commissioners to be appointed by the Chairman. In the event more than one hearing commissioner is appointed, the chairman shall designate one of the hearing commissioners to act as presiding hearing commissioner.

3. Power and Duties of the Presiding Hearing Commissioner -- The presiding hearing commissioner shall have full authority to control the procedure of a hearing, to admit or exclude testimony or other evidence, and to rule upon all motions and objections. The presiding hearing commissioner shall make full inquiry into all the facts in issue and shall obtain a full and complete record of all facts necessary for a fair determination of the issues. The presiding hearing commissioner may call and examine witnesses, direct the production of papers or documents, and introduce the same into the record of the proceedings.

Procedure --

a. The case in support of the complaint shall be presented before the hearing commissioners by a Commission attorney or staff member. The complainant or his counsel may also present any case in support of the complaint.

b. Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent men in the conduct

of their affairs. However, irrelevant, immaterial, or unduly repetitious evidence shall be excluded and the rules of privilege shall be given effect.

c. All testimony shall be given under oath or affirmation, and record of the proceedings shall be made and kept.

d. No testimony or evidence shall be given or received at any hearing concerning any offers or counteroffers made in an effort to conciliate any alleged unlawful discriminatory practice.

e. Two or more proceedings under the act may be joined by the Commission in its discretion.

5. Stipulations -- The parties may file a stipulation as to the facts, in which event the same shall be numbered and used at the hearing. Such stipulation shall not preclude the offering of additional evidence by any party.

6. Continuation and Adjournments -- The hearing commissioners may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing, or by appropriate notice to all parties.

7. Motions and Objections -- Motions made during a hearing and objections with respect to the conduct of a hearing, including objections to the introduction of evidence, shall be stated in writing or orally and shall be included in the record of the hearings.

8. Oral Arguments and Briefs -- The presiding hearing commissioner shall permit the parties, their attorneys, or the members of the Commission's staff presenting the case in support of the complaint, to argue orally before the hearing commissioners and to file briefs within such time limits as the presiding hearing examiner may determine. Oral arguments shall not be included in the record unless the presiding hearing commissioner shall so direct .

9. Improper Conduct -- The presiding hearing commissioner may exclude from the hearing room or from further participation in the proceeding any person who engages in improper conduct before the hearing commissioners.

10. Waiver of Hearing -- With the consent in writing of the respondent and notice to all parties, an order may be entered without holding any hearing or the making of any findings of fact or conclusion of law.

11. Public Hearings -- All Commission hearings shall be open to the public unless the chariman or the presiding hearing commissioner, in his discretion, directs a closed hearing.

12. Written Transcript of the Record -- The written transcript of the record upon the hearing before the hearing commissioners shall consist of the notice of the hearing, the sworn complaint, as the same may have been amended, the answer, as the same may have been amended, the transcript of the testimony taken at the hearing, the exhibits and depositions offered in evidence, written applications, briefs, orders, motions, oral arguments if directed by the hearing examiner, stipulations, the findings of fact, conclusions of law, and the final order of the Commission.

2.080 DISCOVERY

1. Subpoenas

a. Issuance of Subpoena -- Whenever it is deemed necessary to compel the attendance of witnesses or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers, or any other evidence relating to any matter under investigation or in question before the Commission, any commissioner or the executive director may issue a subpoena or subpoena duces tecum and thereby compel such attendance of witnesses or production for examination of books, papers, and records.

b. Issuance of Subpoena at Instance of Party -- Any commissioner or the executive director may issue such subpoena or subpoena duces tecum at the instance of any party to a hearing or other proceedings. The issuance of such subpoena and subpoena duces tecum at the instance of a party shall depend upon a showing of the necessity therefor.

c. Fees -- Where a subpoena or subpoena duces tecum is applied for and issued at the instance of any party to a hearing or other proceeding, the cost of service, witness and milage fees, if any, shall be borne by the party at whose instance it has been requested and issued. Where a subpoena or subpoena duces tecum is issued at the instance of any commissioner or the executive director, the cost of such service, witness, and milage fees, if any shall be borne by the Commission.

2. Depositions and Interrogatories

a. Depositions of witnesses, including any party, may be taken as prescribed by the Kentucky Rules of Civil Procedure.

b. Interrogatories -- The Commission may, at any time after the complaint is filed, require any party or witness to answer interrogatories. The procedure for interrogatories shall conform to the Kentucky Rules of Civil Procedure, as far as is practicable.

3. Refusal to Make Discovery -- If a person fails to permit access, fails to comply with a subpoena, refuses to have his deposition taken, refuses to answer interrogatories, or otherwise refuses to make discovery, the Commission or any party may request an order of the circuit court requiring discovery.

2.090 ORDERS

1. Contents of Order -- An order of the Commission issued after hearing shall set forth the findings of fact and conclusions of law of the hearing commissioners, the Commission's final decision, and in the discretion of the Commission, opinion containing the reasons for said decision.

2. Issuance of Orders

a. If upon all the evidence, the hearing commissioners shall find that a respondent had engaged in any unlawful discriminatory practice, the hearing commissioners shall state its findings of fact, conclusion of law and shall make a recommendation on the basis of which the Commission may issue and cause to be delivered to respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action as in the judgement of the Commission will carry out the purpose of the act. Affirmative action ordered may include the remedies enumerated in KRS 344.230.

b. If upon all the evidence, the hearing commissioners shall find that a respondent has engaged in any unlawful discriminatory practice, the hearing commissioner shall state its findings of fact, conclusion of law and shall make a recommendation on the basis of which the Commission may similarly issue an order dismissing the complaint.

3. Filing -- All orders issued by the Commission after a hearing shall be filed in the Commission's office in Louisville.

2.100 RE-OPENING OF PROCEEDINGS

1. Who May Open -- After hearing and the issuance of a final order, the Commission or the hearing commissioners may, upon its own motion or upon application of any party or intervenor, for good cause shown, or whenever justice so requires, or where an order or determination or decision was made upon default of a party affected thereby; reopen any closed proceeding upon notice of all parties, intervenors and the Attorney General, and take such action as it may deem necessary.

2. Time Limitation for Filing -- No application to reopen shall be considered unless filed within six (6) months from the date the matter was previously closed or otherwise disposed of.

2.110 JUDICAL REVIEW

1. Who May Apply -- A complainant, respondent, or intervenor aggrieved by an order of the Commission, including an order

dismissing a complaint or stating the terms of a conciliation agreement, may obtain an order of the court for enforcement of its order.

2. Forum -- A proceeding for judicial review may be brought in the circuit court in a county in which the alleged unlawful practice which is the subject of the order or complaint occurs or in which a respondent resides or had his principal place of busines

3. Filing of Written Transcript of the Record by the Commission--

a. Upon receipt by the Commission of a copy of the court's order so directing, the Commission shall cause to be certified and delivered to the clerk of the court the entire record made before the Commission, together with the findings, order and decision of the Commission thereon.

b. The Commission's copy of the written transcript of the record shall be available during the regular office hours of the Commission to all parties for examination without cost, and for the purpose of appeal to the circuit court from the order of the Commission. The Commission's copy to the testimony shall, in the discretion of the Commission or the chairman, also be available to intervenors and other persons for such purpose and to such extent as the Commission or the chairman may determine.

2.120 CERTIFICATION -- The chairman, the secretary of the Commission or the executive director is authorized and empowered to certify all documents or records which are a part of the files and records of the Commission.

2.130 AVAILABILITY OF RULES -- The Rules and Regulations of the Commission and any amendments, additions, or modifications thereof, shall be available to the public at the office of the Commission in Frankfort or at any other Commission office.

2.140 CONSTRUCTION OF RULES AND PLEADINGS

1. These rules and regulations shall be liberally constructed to effectuate the purposed and provisions of KRS Chapter 344 and the policies of the Kentucky Commission on Human Rights.

2. All pleadings shall be liberally construed with a view to effect justice between the parties, and the Commission and hearing commissioners will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.

2.150 AMENDMENT OF RULES -- New rules may be adopted and any rule

may be amended or rescinded by the Commission at a regular or special meeting, provided that notice of the proposed adoption, amendment, or recission has been given in writing to all members of the Commission at least ten (10) days before the meeting at which action is to be taken; except that said ten days notice shall not be required when two thirds of the membership of the Commission shall approve in writing any such adoption, amendment, or recission.

2.160 GENERAL INVESTIGATIONS -- The Commission may, in its discretion, conduct such general investigations into the problems of the discrimination as it deems necessary or desirable and may study and report upon the problems of the effect of discrimination on any field of human relationships.

APPROVED AS TO FORM AND LEGALITY:

_____

Galen Martin, Attorney at Law
Executive Director, Kentucky Commission on Human Rights

ADOPTED THIS 10th DAY OF NOVEMBER, 1972

_____

James A. Crumlin, Chairman
Kentucky Commission on Human Rights

HR-3
Re: EMPLOYER REPORTS AND RECORDS
Relates to K. R. S. Chapter 344

Pursuant to the authority vested in the Commission on Human Rights by K. R. S. 344.250, the following regulation is adopted:

3.010 Every employer in the Commonwealth of Kentucky who is subject to the Kentucky Civil Rights Act (K. R. S. Chapter 344) and who is also subject to the jurisdiction of the U. S. Equal Employment Opportunity Commission shall file Standard Form 100 (Employer Information Report EEO-1) with the U. S. Equal Employment Opportunity Commission in accordance with that commission's instructions and regulations.

3.020 Employers subject to the jurisdiction of the U. S. Equal Employment Opportunity Commission shall not be required to furnish information to the Kentucky Commission which is a duplication of that filed on Standard Form 100 (Employer Information Report EEO-1). The Kentucky Commission on Human Rights reserves the right to require reports about the employment practices of individual employers or groups of employers, whenever such information has not been furnished to the Equal Employment Opportunity Commission.

3.030 The provisions respecting confidentiality of information contained in Section 709 (e) of the U. S. Civil Rights Act of 1964 and Section 508 (f) of the Kentucky Civil Rights Act of 1966 shall be observed by all Commissioners and staff of the Kentucky Commission on Human Rights

3.040 Any personnel or employment record made or kept by an employer (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of six months from the date of the making of the record and the personnel action involved, which ever occurs later. In case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of six months from the date of termination. Where a complaint of discrimination has been filed, the respondent employer shall preserve all personnel records relevant to the complainant until final disposition of the complaint. The term "personnel records relevant to the complaint," for example, would include personnel or employment records relating to the complainant and to all other employees holding positions similar to that held or sought by the complainant and application forms or test papers completed by an unsuccessful applicant or by all other candidates for the same position as that for which the complainant applied and was rejected. The date of "final disposition of the complaint" means the date of the statutory period within which a complainant, the Attorney General, and intervenor, or the Commission may bring an action in the circuit court; or the date on which such litigation is terminated, whichever date is later.

3.050 If a person fails to make, keep, or preserve records or make reports in accordance with this regulation, the circuit court for the county in which such person is found, resides or has his principal place of business, upon application of the Commission, may issue an order requiring compliance.

APPROVED AS TO FORM AND LEGALITY:

James C. Hickey, Attorney at Law
Assistant Director, Kentucky Commission on Human Rights

ADOPTED THIS 1st DAY OF NOVEMBER, 1966.

Paul Oberst, Vice-Chairman
Kentucky Commission on Human Rights

HR -4
Re: GUIDELINES FOR ADVERTISEMENT DEALING WITH EMPLOYMENT
Related to KRS Chapter 344

Pursuant to the authority vested in the Commission on Human Rights by KRS 344.190 the following regulation is adopted:

4.010 It shall be a violation of KRS 344.080 for any employer, labor organization, licensing agency, or employment agency to cause to be published, printed, circulated or displayed any advertisement or notice relating to employment, employment opportunities, job openings, union membership, apprentice programs, job training programs, licensing opportunities, or any of the terms, conditions or privileges thereof under an employment advertisement or notice column which is segregated on the basis of race, color, religion, national origin, sex or age or under any column heading which expresses overtly or subtly, directly, or indirectly, any preference, specification or limitation.

4.020 It shall be a violation of KRS 344.080 for any employer, labor organization, licensing agency, or employment agency to cause to be published, printed, circulated or displayed any advertisement or notice relating to employment, employment opportunities, job openings, union membership, apprentice programs, job training programs, licensing opportunities, or any of the terms, conditions or privileges thereof the language of which advertisement or notice expresses any limitation, specification, discrimination or preference as to race, color, religion, national origin, sex or age. A limitation, specification, discrimination, or preference as to religion, national origin, sex or age is not a violation where such limitation, specification, discrimination or preference is a bona-fide occupational qualification for the particular job advertised as defined in 4.030.

Whenever a "help wanted" advertisement or notice is to contain any job title or job description which is not clearly neutral in terms of sex and to the job advertised is not one for which sex is a "bona-fide occupational qualification" as defined in this regulation, then the advertisement or notice should instead utilize a neutral job title whenever practicable. If the use of a neutral job title is not practicable, then the advertisement or notice may contain the non-neutral job title provided, however, that the advertisement or notice also includes. (i) the job title which is the counterpart of the non-neutral job title or (ii) the designation "M/W." Newspapers which print employment advertisements are encouraged to voluntarily print a box on their employment advertising pages indicating that the abbreviation "M/W" when used means men or women.

The Commission staff will prepare a listing of terms considered discriminatory and suggested substitutes and make it available for the guidance of those who come under these provisions.

4.030 For the purpose of this regulation, the "bona-fide occupational qualification" exception shall include only those vocational qualifications which are reasonably necessary to the normal operation of the particular business, enterprise, or apprentice or other training programs. The excepiton shall be interpreted or other training programs. The exception shall be interpreted so that individuals will be considered for employment on the basis of their individual capacities and not on the basis of any characteristics generally attributable to their group. The employer, labor organization, licensing agency, or employment agency has the burden of establishing with the Kentucky Commission on Human Rights that religion, national origin, sex or age is a bona-fide occupational qualification.

The application of the exception is not warranted where based on, for example: assumptions of the comparative general employment characteristics of persons of a particular religion, national origin, sex or age, such as their turnover rate; sterotyped characteristics of the aforementioned classes, such as their mechanical ability or aggressiveness; customer, client, co-worker or employer preference, or historical usage, tradition or custom, or the necessity of providing separate facilities of a personal nature, such as rest rooms or dressing rooms. In regard to sex, the application of the exception may be authorized by the Kentucky Commission on Human Rights where it is necessary for authenticity or genuineness, such as for an actor or actress, or fitters of intimate apparel.

4.040 Any employer, labor organization, licensing agency, or employment agency may make an inquiry of the Kentucky Commission on Human Rights, 600 West Walnut Street, Louisville, Kentucky, 585-3363; or in Frankfort, Kentucky, 828 Capital Plaza Tower, 564-3550, as to whether religion, national origin, sex or age is a bona-fide occupational qualification for a particular job which they intend to cause to be published, printed circulated or displayed. The Kentucky Commission on Human Rights shall, within one working day, give opinions in response to such inquiries. An opinion rendered orally or in writing by the Commission prior to the publication or display of any advertisement in response to such an inquiry shall be binding on the Commission for the purpose of this regulation, except in those instances in which the inquiry has not fully and accurately disclosed the relevant facts regarding the particular job in question. The Commission shall maintain records as to each inquiry made pursuant to this section, to include the name, title and address of the inquiries, a summary of the job and job duties, the bases for the exception claimed and the time, date identification number and disposition of the inquiry.

4.050 It shall be a violation of KRS 344.280 for any newspaper or other publication published or circulated within this Commonwealth to print, publish or circulate employment advertisements under headings or columns that are segregated on the basis of race, color, religion, national origin, sex or age or under any column or heading which expresses overtly or subtly, directly or indirectly a preference, specification or limitation on the basis of race, color, religion, national origin, sex or age.

4.060 Newspapers and other publications which print employment advertisements are encouraged to maintain lists of discriminatory terms and permissible substitutes and to instruct their employees to advise employers, labor organizations, licensing agencies or employment agencies of these terms and to have copies of these regulations available for distribution to advertisers upon request.

4.070 The use of language including but not limited to "black," "Negro," "colored," "white," "restricted," "interracial," "segregated," "Christian," "Jewish," "men," "women," "boy," "gal," "young," "under 40," or any other word, term, phrase or expression which tends to influence, persuade or dissuade, encourage or discourage, attract or repel, any person or persons because of race, color, religion, national origin, sex or age between forty and sixty-five shall be considered discriminatory advertising in violation of KRS 344.080.

4.080 Nothing contained in this regulation shall be deemed to prohibit the Kentucky Commission from including in any of its orders against any respondent employer, labor organization, licensing agency, or employment agency a provision requiring said respondent to include in any advertisement or notice regarding any employment or licensing opportunity the term "Equal Opportunity," or any substantially similar term. Nor shall this regulation be deemed to prohibit persons from voluntarily using the term "Equal Opportunity," or any substantially similar term in any notice or advertisement.

4.090 The Kentucky Commission on Human Rights will follow the above guidelines in determining whether or not a general advertisement or advertising practice violates KRS Chapter 344.

APPROVED AS TO FORM AND LEGALITY:

Galen Martin, Attorney at Law and Executive
Director, Kentucky Commission on Human Rights

ADOPTED THIS 14th DAY OF SEPTEMBER, 1972

James A. Crumlin, Acting Chairman
Kentucky Commission on Human Rights

(Filed October 11, 1972, with the Administrative Regulations Service, Legislative Research Commission, and effective November 10, 1972.)

LISTING OF TERMS CONSIDERED DISCRIMINATORY AND NON-DISCRIMINATORY WITH REGARD TO EMPLOYMENT ADVERTISING

The following is a list of common advertising terms which are not neutral as to sex preference and the suggested substitutes:

Discriminatory Terms	Suggested Substitutes
Attractive, Pretty, Handsome	Well-Groomed, Presentable
Auto Partsman	Auto Parts Work
Barmaid	Bar Help, *Bar Waiter/Waitress
Bell Boy	Bell Hop, *Bell Man or Woman
Body Man	Body Work
Busboy, Tray Girl	Busser, Dish Bussing, Cafeteria Work
Camera Man	Camera Technician, Camera Sales
Cleaning Woman, Cleaning Lady	Cleaning
Corpsman	Paramedic; Medical Assistant
Counter Girl, Counter Boy	Counter Work
Credit Girl	Credit, *Credit Man or Woman
Doorman	Doorman-Male or Female; Door Attendant
Draftsman	Drafting, *Draftsman-Male or Female
Farm Man	Farm Hand, Farm Work
Foreman	Foreman-Male or Female
Girl Friday	General Office M/W
Handyman	Handyman or Woman; Misc. Repair
Host, Hostess	Host/Hostess
Housewife, Mother	Part-Time -- School Hours
Janitor, Janitress	Janitor/Janitress; Custodian
Journeyman	Journeyman -- Male or Female

Discriminatory Term and Suggested Substitutes Continued

Leadman	Crew Leader; Shift Leader
Masseur, Masseusse	*Masseur/Masseusse
Maid	Domestic Help, Housekeeping
Maintenance Man	Maintenance Work
Man, Woman, Girl, Boy, Male, Female, Lady, Gal, Gentlemen	Person, Individual, Applicant-Man or Woman, Male or Female
Nurse	Nurse (M/W)
Partsman	Parts Work
Phone Girls	Phone Work; Phone Sales
Playboy	*Playboy/Playgirl
Pressman	Pressman/Presswoman
Repairman	Repairs, Repairwork
Salad Girl	Salad Preparation
Salesman, Saleslady, Saleswoman	Salesperson, Sales Clerk, Sales
Sheet Metal Man	Sheet Metal Worker
Stewardess	Stewardess/Stewardess, Cabin Attendant
Tailor, Seamstress	*Tailor/Seamstress
Usher, Usherette	*Usher/Usherette

*Permitted only when used together, as here or similar.

NOTE: Where a neutral substitute is not available for a discriminatory term (such as Foreman) such term may be used if the heading or the body of the ad specifies both Males and Females will be considered.

The fact that a term does not appear in the above partial list does not mean that such term is acceptable.

The following terms are considered to be neutral as to sex preference:

Accountant	Clerical	Electrician	Presser
Administrator	Clerk	Engineer	Printer
Advisor	Closer	Estimator	Programmer
Aide	Consultant	Executive	Receptionist
Analyst	Cook	Guard	Representative
Artist	Coordinator	Helper	Secretary
Assistant	Counselor	Inspector	Stenographer
Attendant	Couple	Instructor	Stylist
Auditor	Custodian	Interviewer	Superintendent
Bartender	Demonstrator	Machinist	Supervisor
Beautician	Dentist	Manager	Technician
Bookkeeper	Designer	Mechanic	Teller
Cabinet Maker	Director	Operator	Trainee
Caretaker	Dishwasher	Orderly	Typist
Carpenter	Dispatcher	Pharmacist	Welder
Cashier	Doctor	Photographer	Worker
Caterer	Drive	Porter	Writer

HR-6

RE: MULTIPLE DWELLING REPORTING

Related to KRS Chapter 344

Pursuant to the authority vested in the Kentucky Commission on Human Rights by KRS 344.250 (2).

6.010 DEFINITIONS. As used in this rule:

A. "Multiple apartment development" means one or more buildings situated at the same general location or operated under one management or with ownership in common; or more than one building situated in various locations within the Commonwealth of Kentucky if they are under the same management or are owned by the same person or persons. It shall include, but not be limited to, an apartment building or buildings, garden apartments, and condominiums.
B. "Racial designation" means white, black and other.
C. "Leaseholder" means the party with whom the landlord has contracted for the apartment rental, whether the contracting be orally or in writing. It shall include any subletee or assignee of the contract where notice or approval of subleting or assignment is a condition of the contract.
D. "Apartment turnover" means a change of leaseholder or purchaser.
E. "Applicant" means any persons who appears before either the owner, leasor, agent or other principal or operator of a mulitple apartment development for the purpose of renting or purchasing an apartment.
F. Unless the context indicates to the contrary all terms used in this rule have the same meaning as in KRS Chapter 344.

6.020 PERSONS REQUIRED TO REPORT. The owner or owners of every multiple apartment development which have twenty-five (25) units or more shall file an annual report with the Kentucky Commission on Human Rights concerning the racial composition of the multiple dwelling and factors affecting the composition. Where there are multiple owners of a development and the development is operated as one unit, a consolidated report may be filed. Managers, agents, or others responsible for management of apartments may file for owners. Reports for condominiums shall be filed by the development manager.

6.030 FORM AND CONTENTS OF REPORT. The report shall be submitted on forms approved by the Kentucky Commission on Human Rights and said forms shall be available at any office of the Kentucky Commission on Human Rights. The report shall include information concerning:

A. Racial designation of applications for apartments;
B. Racial designation of apartment leaseholder or purchasers;
C. Apartment turnovers;
D. Apartment recruiting techniques;
E. Rental rates and apartment sizes; and
F. Such other information as the Kentucky Commission on Human Rights determines is necessary to effectuate the purposes of KRS 344.

6.040 FILING OF REPORTS. One copy of the report shall be filed with the Kentucky Commission on Human Rights by July 1, of each year. The report shall include information for a period of one year prior to the month of filing. The Commission may waive submission of all or a part of a report for hardship situations as provided in KRS 344.250 (4). The Executive Director of the Commission may in his discretion postpone or waive the filing of any report required under this Rule.

As a transitory provision, the first report shall be filed by September 1, 1973, without any requirement for information about applicants for apartments, and thereafter this sentence shall cease to be a part of this regulation.

6.050 MAINTENANCE OF RECORDS. The owner or owners of the multiple apartment development shall be responsible to have maintained at all times the following records:

A. Racial designation of each applicant for an apartment;
B. Racial designation of each new apartment leaseholder or purchaser;
C. Racial designation of each new leaseholder or purchaser;
D. Apartment rental or sales recruiting techniques employed and;
E. Such other records as the Kentucky Commission on Human Rights determines is necessary to effectuate the purpose of KRS 344. Such records shall be kept on file for a period of two (2) years and shall be produced for inspection upon request of the Kentucky Commission on Human Rights during business hours.

6.060 VIOLATION. If a person fails to make, keep or preserve records or make reports in accordance with this regulation, the circuit court for the county in which such person resides, or has his principal place of business, upon application of this Commission in accordance with KRS 344.250 (7), may issue an order requiring compliance.

APPROVED AS TO FORM AND LEGALITY:

Galen Martin, Executive Director and Attorney
Kentucky Commission on Human Rights

ADOPTED THIS 31st DAY OF May, 1973

Paul Oberst, Chairman
Kentucky Commission on Human Rights

(Filed June 6, 1973, with the Administrative Regulations Service, Legislative Research Commission, and effective July 5, 1973)

ADVISORY INTERPRETATION A -- ON EMPLOYMENT DISCRIMINATION

The Kentucky Commission on Human Rights is continually concerned with improving the quality and quantity of justice which it administers in its efforts to prevent and eliminate discrimination based upon race, color, religion, national origin, and in employment, sex, and age between 40 and 65 -- obligations imposed by Kentucky and federal law.

The Commission hereby issues an Advisory Interpretation in the employment field defining: (1) Commission policy and interpretation of federal and state law; and (2) the affirmative obligations required of respondents where illegal discrimination and illegal practices are involved.

Such interpretations are the legal bases upon which the Commission handles cases which come before it and are binding upon staff and Hearing Commissioners. Such interpretations are consistent with court decisions and guidelines which have been issued by the U. S. Equal Employment Opportunity Commission since 1965. They are based upon the legal definition of discrimination adopted by Chief Justice Warren Burger for the Supreme Court of the United States, in GRIGGS V. DUKE POWER COMPANY, spring, 1971. Under this definition, acts and practices which have the effect of excluding minorities or women and are not related to business necessity are illegal, regardless of the intent of the respondent. Under this definition of discrimination, when a violation occurs, the remedy requires affirmative corrective action on the part of the respondent, not merely cessation of the prohibited act or practice.

The Kentucky Commission on Human Rights emphasizes that this Interpretation A is a codification of Commission policy for the purpose of clarification for the public, respondents and complianants. The interpretation is to be published and disseminated with the Commission regulations and other interpretations. Believing that all interested parties should have an opportunity to advise the Commission concerning the adequacy of these guidelines, the Commission invites public comment.

Purpose:

In order to clarify the obligations set forth in Kentucky Revised Statutes, Chapter 344 of the Kentucky Civil Rights Act as amended, and particularly sections 344.020, 344.170, 344.190 (6) (10) and (13), the Commission has determined to adopt interpretive statements to resolve a number of issues which have been or may be raised before it, to provide advice to interested parties as to how it intends to interpret the law in cases which arise before it, and to speed the internal processing of cases through the Commission procedures with respect to discrimination because of race, color, religion, national origin, and in employment, sex and age between 40 and 65. These advisory interpretations are designed to assist employers and others covered by the Kentucky Civil Rights Act and are not intended as Commission regulations.

The Commission draws on the decision of the Kentucky Court of Appeals in the case of WHISPERING HILLS V. KENTUCKY COMMISSION ON HUMAN RIGHTS, Ky., 475 S.W. 2d 645, and on the well-developed body of federal law in making its interpretation of Kentucky law as provided in KRS 344.020 (1) (a) "To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 (82 Stat. 81), and the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602)."

The Commission directs attention to the decision and the written record in cases which it has heard including a nine day hearing in the case of SCOTT AND HOWARD V. L & N RAILROAD held in July, 1969, and a six day hearing in the case of CARR V. PHILIP MORRIS, held in September and October, 1969. Those cases applied, in Kentucky, principles previously developed in federal court including QUARLES V. PHILIP MORRIS, Inc. 279 F. Supp. (E. D. Va., 1968) which relates to seniority.

INTERPRETATION CONCERNING EMPLOYMENT DISCRIMINATION

1. Discrimination defined:

The Commission hereby adopts the definition of discrimination set forth by Chief Justice Warren Burger of the United State Supreme Court in GRIGGS V. DUKE POWER COMPANY, 424 91 S. Ct. 849 (1971), a case arising under Title VII of the Civil Rights Act of 1964. In that case, the Supreme Court defined discrimination in employment as follows:

> The objective of Congress in the enactment of Title VII is plain from the language of the statute. It was to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of white employees over other employees. Under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of *intent*, cannot be maintained if they operate to "freeze" the status quo of prior discriminatory employment practices.
>
> Congress did not intend by Title VII, however, to guarantee a job to every person regardless of qualifications. In short, the Act does not command that any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed. What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification.
>
> Congress has now provided that tests or criteria for employment or promotion may not provide equality of opportunity merely in the sense of the fabled offer of milk to the stork and the fox. On the contrary, Congress has now required that the posture and condition of the job-seeker be taken into account. It has—to resort against to the fable—provided that the vessel in which the milk is proffered be one all seekers can use. The Act proscribes not only overt discrimination but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited. —good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as "built-in headwinds" for minority groups and are unrelated to measuring job capability.
>
> The Company's lack of discriminatory intent is suggested by special efforts to help the undereducated employees through Company financing of two-thirds the cost of tuition for high school training. But Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation. More than that, Congress has placed on the employer the burden of showing that any given requirements must have a manifest relationship to the employment in question.
>
> The facts of this case demonstrate the inadequacy of broad and general testing devices as well as the infirmity of using diplomas or degrees as fixed measures of capability. History is filled with examples of men and women who rendered highly effective performance without the conventional badges of accomplishment in terms of certificates, diplomas, or degrees. Diplomas and tests are useful servants, but Congress has mandated the commonsense proposition, that they are not to become masters of reality.

2. The Duty of Fair Recruitment:

Every employer is required by Kentucky law to conduct recruitment and hiring practices in such a way as to assure that minorities and women are given fair notice of job vacancies, opportunity to apply for vacancies, and be considered for employment in all vacancies on basis which do not discriminate on grounds prohibited by law. In addition, hiring and job assignmen practices must assure that the effects of past exclusion of minorities/women for all or any pa of the employers work force are not carried forward into the future. Where the effects of any practice and procedure are contrary to the foregoing, they are illegal. For example, an employer with a substantially all white work force fills his vacancies by word of mouth referral o applicants by incumbent employees. The result is that substantially all of his applicants are

white. This practice is illegal because it denies minorities notice of an opportunity to apply for such employment. A second example: An employer is located in a suburban area where the local population is substantially all white. He fills his vacancies from applicants who walk in seeking employment, or from applicants who notice a "job vacancy" sign on the premises. Virtually all applicants are white. The practice is illegal. A third example: The employer fills his vacancies through an employment agency which refers only male applicants. This practice is illegal because it denies women the notice and opportunity to apply for these positions.

3. The Duty to Plan for Fair Employment:

The Kentucky Commission on Human Rights concludes that there is a substantial likelihood that the location of a plant or other facility in an area which has a low minority population will have an adverse effect on minority employment in such facility. The difficulties which minority persons experience in finding housing in areas outside central cities and the inadequacies of public transportation to such areas from cities in which substantial proportions of minority persons reside contribute to the persistence of low utilization of minority employees in such facilities. A study conducted by the EEOC Office of Research based on reports of employers of more than 100 employees demonstrates conclusively that facilities in outlying areas of the nation are likely to have a lower proportion of minority employees than those in the urban centers.

Employers making planning decisions with respect to the location of facilities are advised that, unless they take appropriate action to assure minorities fair employment opportunities in such locations, they may be in violation of Kentucky laws if the effect of their decision is to restrict or limit minority opportunities.

Employers contemplating the location or relocation of a facility in an area in which the percentage of minority population is less than half the percentage of minority population in an area within commuting distance of the facility should establish minority employment goals based on minority population, minority work force in relevant job categories, minority unemployment, and availability of minority workers of relevant skill, existing in the area of minority population as well as those located nearer his establishment and, in addition, should adopt as a minimum goal, the retention of the level of minority employee participation which he has previously attained in any facility or facilities which are subject to a relocation move.

4. Allegations of Discrimination in Discharge Cases:

A. Virtually all discharge cases, among others, turn on the reason or reasons why an employee was discharged. The charging party alleges that the discharge was because of minority group or female status. The respondent maintains that he had "good cause" for the discharge. The Commission determines that it is sufficient to find discrimination in a discharge case if the race, sex or other proscribed category played any casual part in the discharge of the employee. It is not necessary that race, etc., be the sole cause of the discharge. It is sufficient if the prohibited grounds was one of the considerations which lead to the discharge. As the Court of Appeals for the Sixth Circuit held in KING V. LABORERS LOCAL 818, 443 F. 2d 272 (CA 6, 1971),

> ". . . where it can be shown that discrimination on the basis of race, color, religion, sex or national origin was, in part, a causal factor in a discharge or refusal to hire the aggrieved party is statutorily entitled to damages of lost compensation."

B. In determining the credibility of witnesses where there is a dispute as to facts in connection with a discharge case, it is proper to consider whether other related aspects of the employers business operate in an apparently discriminatory manner. In making this judgment, it is appropriate for the Commission to consider statistics of minority/female employment compared with the available labor force in the population. The case of MABIN V. LEAR SIEGLER, INC. 457 F. 2d 806 (CA 6, 1972) 4 FEP 679, aff'd (6th Cir. 1972) 4 FEP 687, illustrates the process which the Commission will follow. Judge Fox in the district court adopted the following analysis:

> Title VII of the Civil Rights Act is to be accorded a liberal construction in order to carry out the purpose of Congress to eliminate the inconvenience, unfairness and humiliation of racial discrimination. *Hamm v. City of Rock Hill*, 379 U.S. 306, 85 S. Ct. 3S1, 13 L.ED. Christian Association of Raleigh, N.C., 397 F. 2d 96 (4th Cir. 1968); *Miller v. Amusement Enterprises, Inc.*, 394 F. 2d 342 (5th Cir. 1968); *Quarles v. Phillip Morris, Inc.*, 279 F. Supp. 505, 1 FEP Cases 260, 67 LRRM 2008 (E.D. Va. 1968).
>
> The defendant is presumed to intend the probable consequences of its conduct. *Radio Officers' Union, et al., v. N.L.R.B.* 347 U.S. 17, 74 S.Ct. 323, 98 L.ED. 455, 43 LRRM 2417 (1954). In other words, "Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation," *Griggs v. Duke Power Co.*, U.S. 3 FEP Cases 175 (decided March 8, 1971).
>
> "In cases concerning racial discrimination statistics often tell much and courts listen." *State of Alabama v. United States*, 304 F. 2d 583, 586 (5th Cir.) aff'd per curiam, 371 U.S. 37, 83 S.Ct. 145, 9 L.ED. 2d (1962)," *Parham v. Southwestern Bell Telephone Co.*, 433 F. 2d 421, 2 FEP Cases 1017 (8th Cir. 1970).
>
> Statistics that demonstrate a substantial disparity between the percentages of blacks available for employment in a specific community and the percentage of blacks employed by a particular business in that community may in the proper case make out a prima facie case of racial discrimination. *Turner v. Fouche*, 396 U.S. 346, 360, 90 S.Ct. 532, 24 L.ED. 2d 567 (1970); *Parham v. Southwestern Bell Telephone Co.*, supra, at 425-428; *Jones v. Lee Way Motor Freight, Inc.*, 431 F. 2d 1037, 1039 (10th Cir. 1970); *Dailey v. City of Lawton*, 425 F. 2d 1037, 1039 (10th Cir. 1970) *United States v. Sheet Metal Workers Int. Assn.*, 416 F. 2d 123, 127, n. 7, 2 FEP Cases 127 (8th Cir. 1969); *United States v. Hayes International Corp.*, 416 F. 2d 1038, 1043, 2 FEP Cases 67 (5th Cir. 1969); *Cypress v. Newport-News General Hospital Association*, 375 F. 2d 648 (4th Cir.)

APPROVED AS TO FORM AND LEGALITY:

_____

Galen Martin, Attorney at Law and Executive Director
Kentucky Commission on Human Rights

ADOPTED THIS 26th DAY OF APRIL, 1973

_____

Paul Oberst, Chairman
Kentucky Commission on Human Rights

EFFECTIVE DATE: MAY 25, 1973

CHAPTER 104

(HB 529)

AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.010 is amended to read as follows:

In this chapter:

(1) 'Person' includes one or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) 'Commission' means the Kentucky Commission on Human Rights.

(3) 'Commissioner' means a member of the commission.

(4) 'Discrimination' means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty and sixty-five, or the aiding, abetting, inciting, coercing or compelling thereof.

(5) 'Real property' includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) 'Housing accommodations' includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as the home or residence of one or more individuals.

(7) 'Real estate operator' means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) 'Real estate broker' or 'real estate salesman' means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(9) 'Financial institution' means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(10) 'Licensing agency' means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(11) 'Credit transaction' shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

Section 2. KRS 344.020 is amended to read as follows:

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 (78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968 (82 Stat. 81), and the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602);

(b) To safeguard all individuals within the state from discrimination because of race, color, religion, [and] national origin, *sex, and age* [in connection with employment, public accommodations and real estate transactions]; thereby to protect their interest in personal dignity and freedom from humiliation [in places of public accommodation and in real estate transactions], to make available to the state their full productive capacities [in employment], to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health and general welfare, and to further the interest, rights and privileges of individuals within the state; [and to prohibit discrimination in employment against individuals because of sex, or age between forty and sixty-five;]

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing his own property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of race, color, religion, national origin, sex, or age [between forty and sixty-five].

Section 3. KRS 344.300 is amended to read as follows:

(1) Cities and counties are authorized to adopt and enforce ordinances, orders, and resolutions prohibiting discrimination on the basis of race, color, religion, or national origin, *sex, or age*, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

(2) Cities and counties may adopt and enforce ordinances, orders and resolutions prohibiting discrimination; no ordinance, order or resolution shall attempt to exempt more transactions from its coverage than are exempted by KRS 344.365.

Section 4. KRS 344.310 is amended to read as follows:

Any city or county, or one or more cities and counties acting jointly, may create a human rights commission (hereinafter a 'local commission'):

(1) To provide for execution within its jurisdiction of the policies embodied in this chapter and the federal civil rights act of 1964 (78 Stat. 241); and

(2) To safeguard all individuals within its jurisdiction from discrimination because of race, color, religion, or national origin, *sex, or age.*

Section 5. KRS 344.370 is amended to read as follows:

It is an unlawful practice for a financial institution or an individual employed by or acting on behalf of a financial institution:

(1) To discriminate against an individual because of the race, color, religion, or national origin, *sex, or age* of the individual or the present or prospective owner, tenant or occupant of the real property or of a member, stockholder, director, officer, employe, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services in connection therewith; or

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, or national origin or an intent to make such a limitation, specification, or discrimination.

(3) To discriminate by refusing to give full recognition, because of sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepared to become joint or several obligors in real estate transactions.

Section 6. A new section of KRS Chapter 344 is created to read as follows:

(1) It shall be an unlawful practice to deny an individual, because of sex, the full and equal enjoyme of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, or motel

(2) The provisions of this section shall not apply to:

(a) restrooms, shower rooms, bath houses and similar facilities which are in their nature distinct private;

(b) YMCA, YWCA and similar type dormitory lodging facilities;

(c) the exemptions contained in KRS 344.130.

Section 7. A new section of KRS Chapter 344 is created to read as follows:

(1) It shall be an unlawful practice for any person, whether acting for himself or another, in connecti with any credit transaction because of race, color, religion, national origin or sex to:

(a) deny credit to any person;

(b) increase the charges or fees for or collateral required to secure any credit extended to any perso

(c) restrict the amount or use of credit extended or impose different terms or conditions with respect the credit extended to any person or any item or service related thereto;

(d) attempt to do any of the unlawful practices defined in this section.

(2) The provisions of this section shall not prohibit any party to a credit transaction from consideri the credit history of any individual applicant.

(3) The provisions of this section shall not prohibit any party to a credit transaction from consideri the application of Kentucky law on dower, curtesy, descent and distribution to the particular case or fro taking reasonable action thereon.

Section 8. A new section of KRS Chapter 344 is created to read as follows:

Any person deeming himself injured by any act in violation of the provisions of this chapter shall have civil cause of action in circuit court to enjoin further violations, and to recover the actual damages sustained him, together with the costs of the law suit, including a reasonable fee for his attorney of record, all of whi shall be in addition to any other remedies contained in this chapter.

Section 9. To carry out the foregoing provisions of this Act relating to discrimination, there shall appropriated to the Commission on Human Rights from the general expenditure fund in the state treasury t sum of $75,000 for the fiscal year, 1974-75 and the sum of $75,000 for the fiscal year, 1975-76.

Section 10. A new section of Subtitle 12 of Chapter 304 of the Kentucky Revised Statutes is created read as follows:

No person shall, whether acting for himself or another in connection with an insurance transaction, f or refuse to issue or renew insurance to any person because of race, color, religion, national origin or sex exce that rates determined through valid acturial tables shall not be violative of this Act.

Approved March 21, 197

AN ACT relating to civil rights.

WHEREAS, the purpose of the Kentucky Civil Rights Act is to provide for execution within the State of the policies embodied in Federal civil rights law; and

WHEREAS, housekeeping amendments are needed to the Kentucky Civil Rights Act of 1966 as amended in 1968 and 1972 to carry out policies of Federal Civil Rights Acts and recent court decisions;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

(1) 'Employer' means a person who has eight (8) or more employes within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(2) 'Employment agency' means a person regularly undertaking with or without compensation to procure employes for an employer or to procure for employes opportunities to work for an employer and includes an agent of such person.

(3) 'Labor organization' means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employe representation committee, group, association, or plan so engaged in which employes participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(4) 'Employe' means an individual employed by an employer, but does not include an individual employed by his parents, spouse or child, or an individual employed to render services as a domestic in the home of the employer.

(5) 'Religion' means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

Section 2. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). The commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty days after the alleged unlawful practice occurs[, except that a complaint alleging discrimination in real estate transaction must be filed within thirty days, and a complaint alleging discrimination in employment (under KRS 344.030 to 344.110) must be filed within ninety days].

(2) The commission shall determine within thirty days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(3) The complainant, within ten days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within ten days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and such other public officers and persons as the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employe thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one year from the date of a conciliation agreement, and at such other times as the reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take such action as it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under KRS 344.150, 344.190 to 344.210, and 344.230 to 344.260, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper.

Section 3. KRS 344.230 is amended to read as follows:

(1) If the commission determines that the respondent has not engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

(2) If the commission determines that the respondent has engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, the attorney general, and to such other public officers and persons as the commission deems proper.

(3) Affirmative action ordered under this section may include but is not limited to:

(a) Hiring, reinstatement or upgrading of employes with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(b) Admission or restoration of individuals to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs.

(c) Admission of individuals to a place of public accommodation, resort, or amusement.

(d) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.

(e) Reporting as to the manner of compliance.

(f) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission.

(g) Sale, exchange, lease, rental, assignment or sublease of real property to an individual.

(h) Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarassment, and expense incurred by the complainant in obtaining alternative housing accommodations and for other costs actually incurred by the complainant as a direct result of such unlawful practice.

(4) The commission may publish or cause to be published the names of persons who have been determined to have engaged in an unlawful practice.

Section 4. KRS 344.365 is amended to read as follows:

(1) Nothing in KRS 344.360 shall apply:

(a) To the rental of a housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations;

(b) To the rental of *one room or one rooming unit in a* [a portion of a] housing accommodation by *an individual* [the occupant of the housing accommodation, or by the owner of the housing accommodation] if he or a member of his family resides therein;

(c) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious corporation, association or society, to the extent that the religious corporation, association, or society, limits, or gives preferences in, the sale, lease, rental, assignment, or sublease of real property to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained.

(2) Nothing in this chapter shall be construed to affect the legal rights of a private individual homeowner to dispose of his property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(3) Nothing in this chapter shall require a real estate operator to negotitate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.